

**Item 4.****Development Application: 360 Victoria Street, Darlinghurst - D/2021/1531**

File No.: D/2021/1531

**Summary**

<b>Date of Submission:</b>	Submitted 29 December 2021  Amended plans received 14 April 2022, 5 July 2022 and 18 August 2022
<b>Applicant:</b>	Matthew Owen Pty Ltd
<b>Architect/Designer:</b>	Boffa Robertson Group
<b>Owner:</b>	Trustees of St Vincent's Hospital Sydney
<b>Planning Consultant:</b>	Ethos Urban
<b>Heritage Consultant:</b>	Weir Phillips Heritage and Planning
<b>Cost of Works:</b>	\$1,470,488
<b>Zoning:</b>	The site is located in the B4 - Mixed Use zone. The proposal involves the change of use to a medical centre (mental health service), which falls within the definition of a health services facility under the Sydney LEP 2012. Health services facilities are permissible with consent in the zone.
<b>Proposal Summary:</b>	<p>Consent is sought for the change of use of Green Park Hotel to a medical centre (mental health service) and associated internal alterations to accommodate the following: mental health care spaces, webinar studio, offices, new internal lift and storage space.</p> <p>The proposed operating hours of the mental health care spaces are 8.00am - 10.00pm, Monday to Sunday. The proposed operating hours of the office spaces and webinar studio are 8.00am - 6.00pm, Monday to Friday inclusive.</p> <p>The application was required to be notified for a period of 21 days. The application was notified between 20 January and 11 February 2022. As a result, a total of 29 submissions were received.</p>

Submissions raised the following issues:

- Social and cultural significance of the subject site to the local community;
- The discontinuation of the historic use of the site as a pub;
- Unsuitable location for the development;
- Physical heritage impacts;
- Role of existing use in providing informal mental health support;
- Hours of operation;
- Impact on character of the locality;
- Financial loss to nearby businesses;
- Existing presence of similar uses in the locality; and
- Security and safety concerns.

The Minister's Local Planning Panel Direction identifies development that is the subject of 25 or more unique submissions by way of objection as 'contentious development' and is therefore referred to the Local Planning Panel for determination.

The proposal complies with planning controls and subject to conditions pertaining to heritage conservation the application is recommended for approval.

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

**Development Controls:**

- (i) Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulation 2000
- (ii) Sydney Local Environmental Plan 2012
- (iii) Sydney Development Control Plan 2012
- (iv) SEPP (Resilience and Hazards) 2021
- (v) SEPP (Biodiversity and Conservation) 2021

**Attachments:**

- A. Recommended Conditions of Consent
- B. Selected Drawings

**Recommendation**

It is resolved that consent be granted to Development Application No. D/2021/1531 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 development complies with the objectives of the B4 Mixed use zone pursuant to the Sydney LEP 2012.
- (B) The proposal is consistent with the relevant objectives and controls of the Sydney LEP 2012 and the Sydney DCP 2012.
- (C) Subject to conditions of consent, the development will not have a detrimental impact upon the locally listed heritage item.
- (D) Subject to conditions of consent, the development will not adversely affect the character of the Darlinghurst Civic Precinct Locality or the Oxford Street and Victoria Street Heritage Conservation Area.
- (E) Subject to conditions of consent, the development will achieve the principles of design excellence.
- (F) Subject to conditions of consent, the development will not adversely impact upon the amenity of the locality.
- (G) Suitable conditions of consent have been applied and the development is considered to be in the public interest.

## Background

### The Site and Surrounding Development

1. The site has a legal description of Lot 21 DP 867249, known as 360 Victoria Street, Darlinghurst. It is rectangular in shape with area of approximately 250.4sqm. It has primary street frontages to both Liverpool Street to the north (27.38m) and Victoria Street to the west (9.145m). The site is located on a corner allotment, southeast of the intersection between Liverpool Street and Victoria Street. Levels on the site fall by approximately 2m from west to east.
2. The site contains a part two part three storey Federation style hotel building constructed of brick with a terracotta tiled hipped and gabled roof.
3. The site is a local heritage item, listed as item no. 1491 'Green Park Hotel including interior'. It is located within the Oxford Street and Victoria Street heritage conservation area (C12). The site is identified as a contributing building.
4. The subject building has been designed with influence from the Free Classical as well as Arts and Crafts styles, evidenced by the parapeted gables, round ventilators, multi paned upper windows, contrasting window and balcony trims, curved corner wall, arched balconies and windows, decorative chimney brickwork and general symmetry of the building. The date of construction of the existing building is recorded as 1893. Since this date it has been formally known as the Green Park Hotel and was used as a pub until it's sale and subsequent closure in 2020.
5. The surrounding area is characterised by a mixture of land uses, primarily being of a commercial nature adjoining Victoria Street and of a residential nature adjoining Liverpool Street. Land uses associated with St Vincent's Hospital are predominantly located to the south of the site, with the Victor Chang Cardiac Research Institute located at 405-429 Liverpool Street, the Kinghorn Cancer Centre at 366-382 Victoria Street and the Garvan Institute of Medical Research at 384 Victoria Street. St Vincent's Hospital is located further to the south beyond Burton Street.
6. The site is located within the Darlinghurst Civic Precinct locality.
7. The site is not identified as being subject to flooding.
8. A site visit was carried out on 9 December 2021. Photos of the site and surrounds are provided below:



Figure 1: Aerial view of site and surrounds



Figure 2: Site viewed from Victoria Street facing east



Figure 3: Site viewed from Liverpool Street facing south

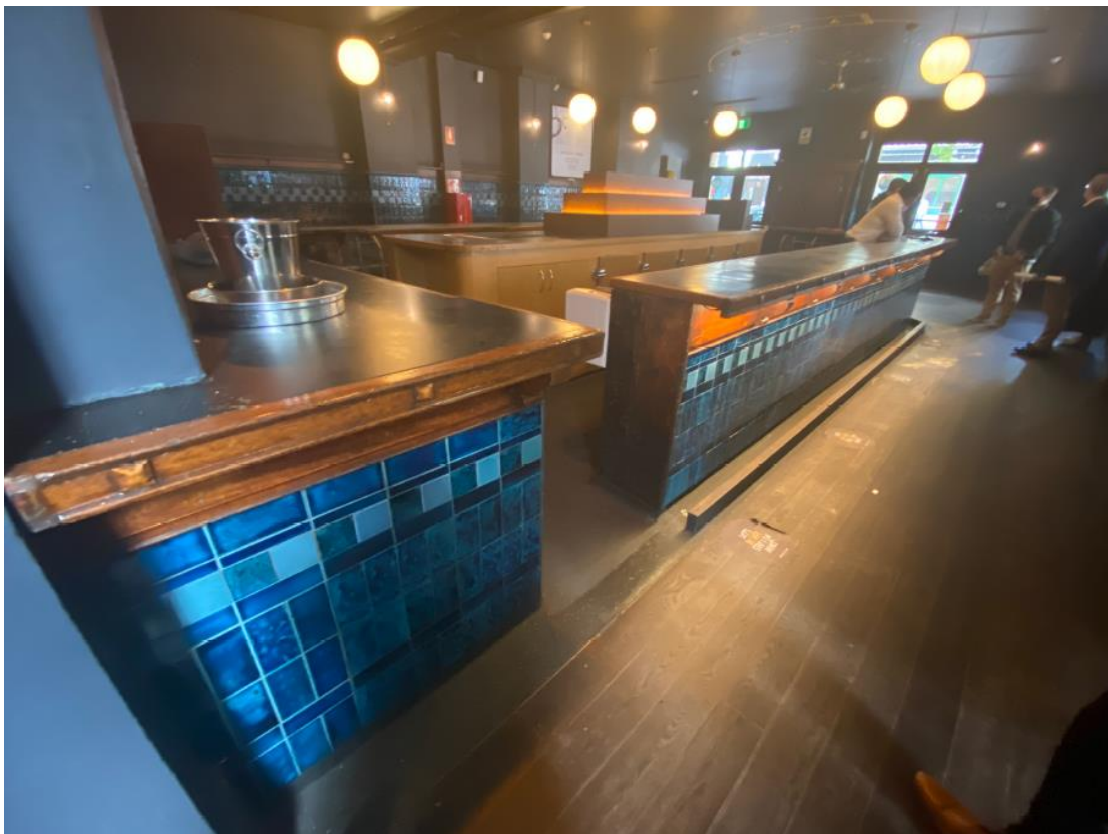


Figure 4: View of ground floor level main bar



Figure 5: View of ground floor level detailing



Figure 6: View of ground floor level showing courtyard



Figure 7: View of ground floor level facing bar



Figure 8: View of ground floor level ceiling

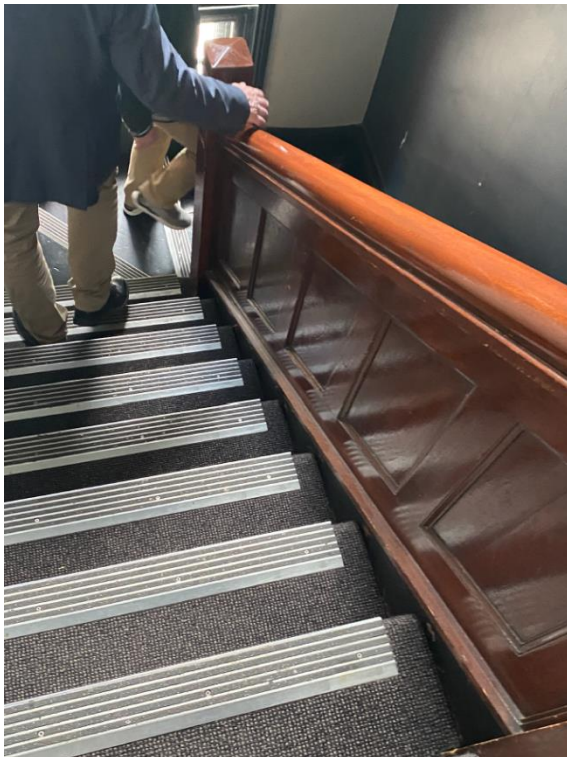


Figure 9: View of main stair

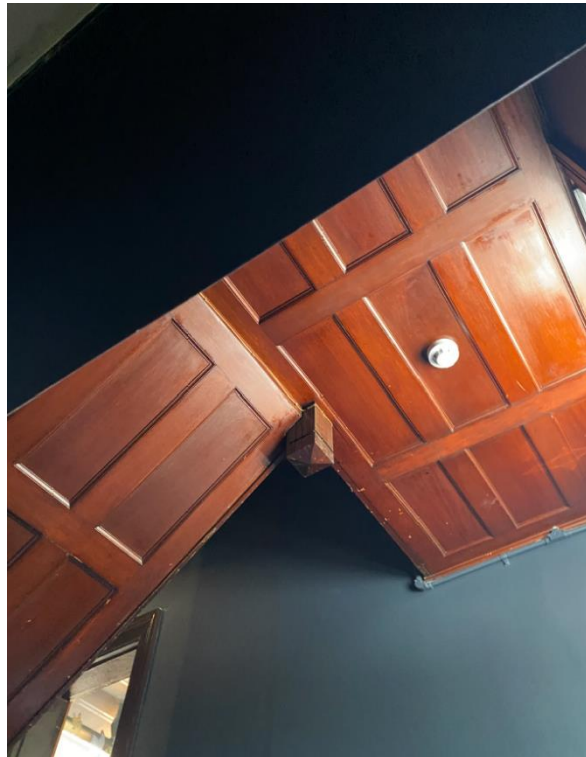


Figure 10: View of main stair underside panelling





Figure 11: View of first floor level office



Figure 12: View of first floor level office



Figure 13: View of lower ground floor level

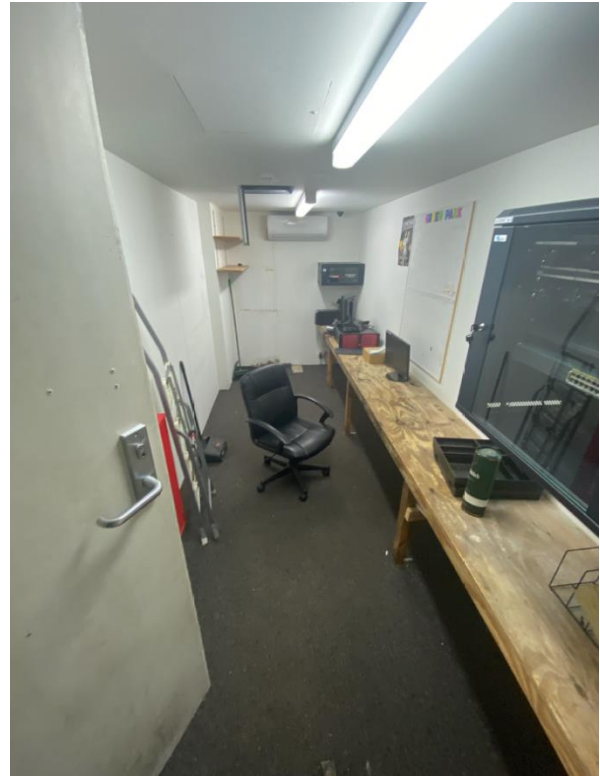


Figure 14: View of lower ground floor level

## History Relevant to the Development Application

### Development Applications

9. The following applications are relevant to the current proposal:
  - **PDA/2021/308** – A pre-development application meeting was held on site between Council staff and the applicant on 9 December 2021.
  - **D/2022/769** – A development application for alterations to the roof of the Green Park Hotel building including replacement of roof tiles, roof flashing, gutters, downpipes and awning roof sheeting was lodged on 1 August 2022. This application is currently being assessed.

### Compliance Action

10. The site is not subject to any compliance action.

### Amendments

11. Following a preliminary assessment of the proposed development by Council officers, an initial request for additional information and amendments was sent to the applicant on 16 March 2022.
12. The application has undergone several amendments over the course of the assessment period in response to Council comments. A final set of amended plans was received by Council on 18 August 2022.

13. The final set of plans include the following amendments:

**(a) Changes to Proposed Lift**

Concern was raised by Council staff that the location of the proposed lift would result in the unnecessary removal of substantial heritage fabric on each level of the building and the lift overrun would require a modification to the existing original roof profile.

Council's planner advised the applicant to investigate locating the proposed lift in the existing courtyard as an alternative location.

The proposed location of the lift was ultimately not amended by the applicant. Notwithstanding this, the following amendments to the lift have been made:

- (i) The lift overrun has been reduced to be completely within the external roof, having no impact to the roof profile or external fabric; and
- (ii) The lift shaft (originally proposed as concrete) has been amended to be a visually lightweight structure consisting of glazed elements. This will also result in the retention of the external first floor wall and window, originally proposed to be partially demolished.

**(b) Changes to Proposed Partitions**

The proposed full-height partition walls on the ground floor have been amended to help maintain the open layout of the main historic bar area.

The proposed partitions have been amended so that they are moveable, non-fixed partitions.

A condition is recommended requesting detailed and dimensioned sections and elevations that demonstrate the design, height, material and functionality of the proposed moveable partitions in the bar space.

**(c) Changes to Proposed First Floor Demolition**

The application proposed demolition of internal first floor walls to the west of the building.

The applicant has submitted that demolition of these walls is essential for accessibility, noting that circulation zones must include a minimum width of 1500mm.

The proposed demolition works have been amended to include retention of the existing nibs and bulkheads and to include floor markings where the original location of the removed original walls were for the purpose of heritage interpretation.

**(d) Retention of Existing Bar Counter**

The application proposed works which would conceal the historic bar counter, including the covering of tiles, covering of the bar countertop and installation of privacy dividers. These works were not supported due to the significant heritage impacts.

The plans have been amended to remove the works proposed to the bar counter.

**(e) Retention of First Floor Stairs**

The application proposed replacement of the top flight of the existing stair with a new timber stair and handrail.

Concern was raised by Council staff that removal of this section of the stair would result in a loss of original and significant heritage fabric.

The plans have been amended to retain the stair in its entirety.

**(f) Retention of Pressed Metal Ceiling**

The plans have been amended to confirm that the existing pressed metal ceiling on the ground floor will be retained.

**(g) Addition of Bicycle Parking and Associated Facilities**

The application proposed informal bicycle parking facilities including bicycle parking in unused areas of the lower ground floor level or on-street.

The plans have been amended to include formalised bicycle parking facilities within the lower ground floor level consistent with Section 3.11.3 of the Sydney DCP 2012. These include 4 secure staff bicycle parking spaces, 4 personal lockers, and a shower with change facilities.

**Proposed Development**

14. The application, as amended, seeks consent for the change of use of Green Park Hotel to a medical centre (mental health service) and associated internal alterations as detailed below:

**Proposed Use**

The primary proposed use of the building is as a community based early intervention mental health facility, staffed by clinicians, peer workers and volunteers. The mental health facility is proposed to consist of the following components located on ground floor level, as described by the application:

- 'Safe Haven' Café; and
- Multi-function health care space.

The 'Safe Haven' Café is proposed to function as a drop in and support centre for people who may be experiencing loneliness, personal difficulties, or seeking social connection. It is not proposed to operate as a commercial café open to general trade. People seeking mental health support would be able to enter the facility from Victoria Street where there will be a triage system within the entrance foyer. Staff would then assess and refer according to needs.

The multi-function health care space is proposed to facilitate a Community Creative Arts Health Hub to act as an accessible space for visual art, music and memory therapy programs, and other arts health related exhibitions and programs.

The proposed operating hours of the mental health facility components on the ground floor level are 8.00am - 10.00pm, Monday to Sunday inclusive.

Additional ancillary uses are proposed to the lower ground floor level and to the first floor level consisting of the following:

- Webinar studio; and
- Office premises.

The webinar studio, located at lower ground floor level, is proposed to be used as a permanent space for the filming of live webinars and video updates and content in association with St. Vincent's Hospital.

The office premises, located at first floor level, are proposed to accommodate the St. Vincent's Hospital Innovation and Improvement Team.

The proposed operating hours of the webinar studio and office spaces located on the lower ground floor level and first floor level are 8.00am - 6.00pm, Monday to Friday inclusive.

### **Demolition Works**

#### Lower Ground Floor Level

- Removal of stairs between hallway and cellar;
- Removal of existing toilets;
- Removal of columns and internal walls within cellar; and
- Excavation for work associated with proposed lift.

#### Ground Floor Level

- Removal of existing southwestern entry door to Victoria Street;
- Alterations to existing bar to accommodate accessibility provisions;
- Removal of the bar island bench;
- Removal of existing toilet;
- Removal of stairs between courtyard and eastern wing of building; and

- Removal of existing horseshoe bench seating.

#### First Floor Level

- Removal of doors and internal partitions;
- Part removal of structural walls;
- Removal of existing toilet; and
- Removal of stairs between hallway and eastern wing of building.

### **Proposed Works**

#### Lower Ground Floor Level

- Installation of lift core and lift;
- Lift landing area;
- Webinar storage room;
- Waste storage area;
- Bicycle racks and personal lockers; and
- Male, female and accessible toilets.

#### Ground Floor Level

- Installation of lift core and lift;
- 2x group activity rooms;
- Installation of lightweight partitions;
- New workstation within main bar;
- Automatic glazed sliding doors;
- Construction of new stairs between courtyard and eastern wing of building;
- Replacement of existing metal bars to ground floor level windows; and
- Alterations to main entry door.

#### First Floor Level

- Installation of lift core and lift;
- New shared office and meeting room;
- New storage room; and
- Construction of new stairs between hallway and eastern wing of building.

15. Plans and sections of the proposed development are provided below:

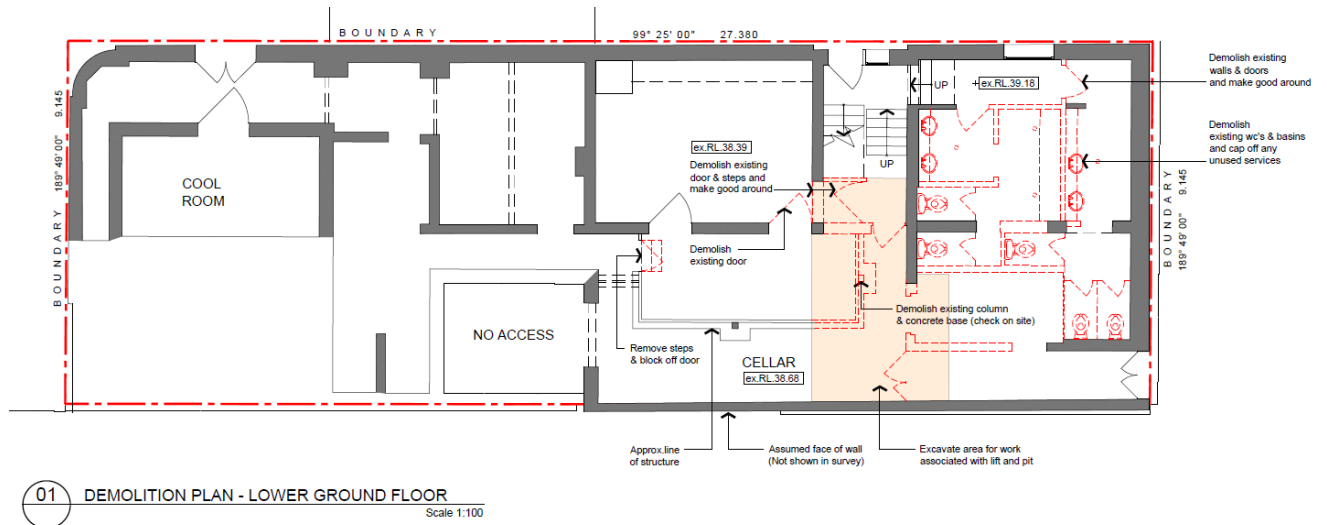


Figure 15: Lower Ground Floor Level Demolition Plan

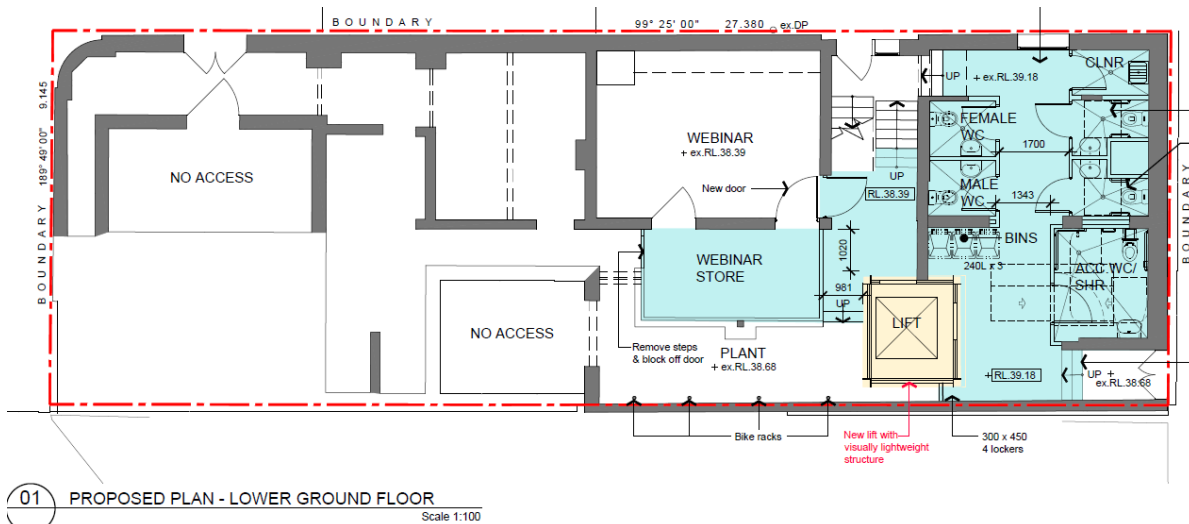


Figure 16: Lower Ground Floor Level Proposed Plan

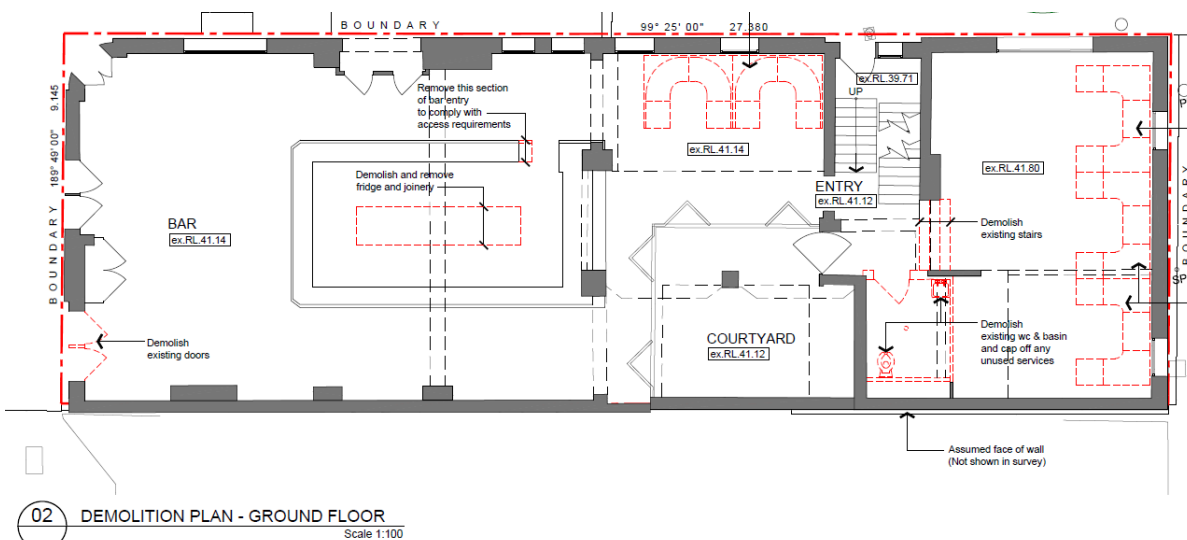


Figure 17: Ground Floor Level Demolition Plan

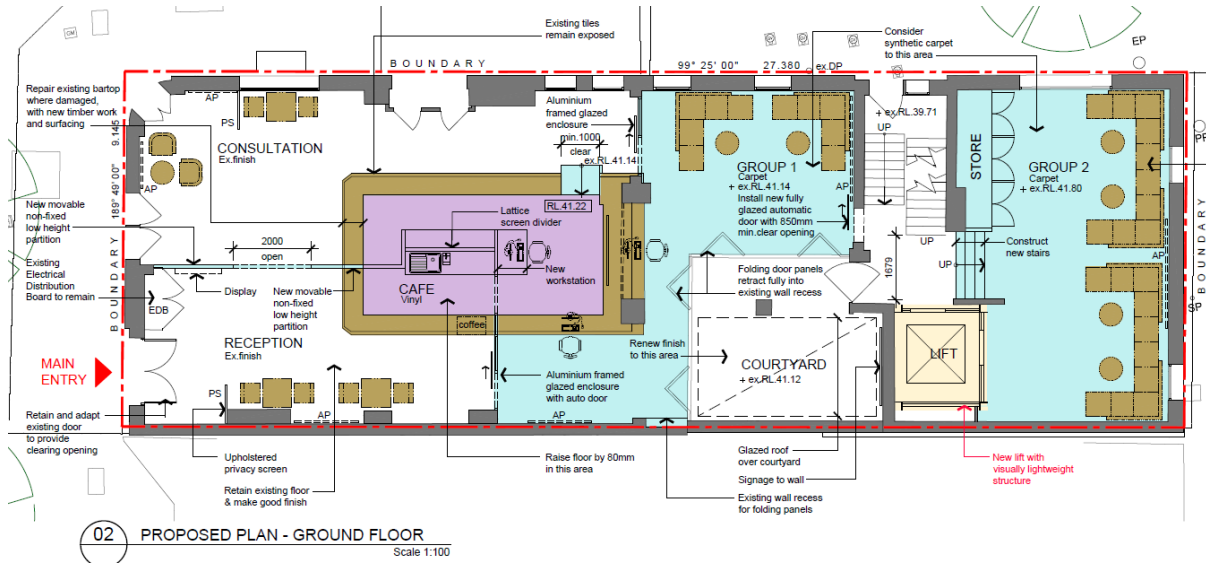


Figure 18: Ground Floor Level Proposed Plan

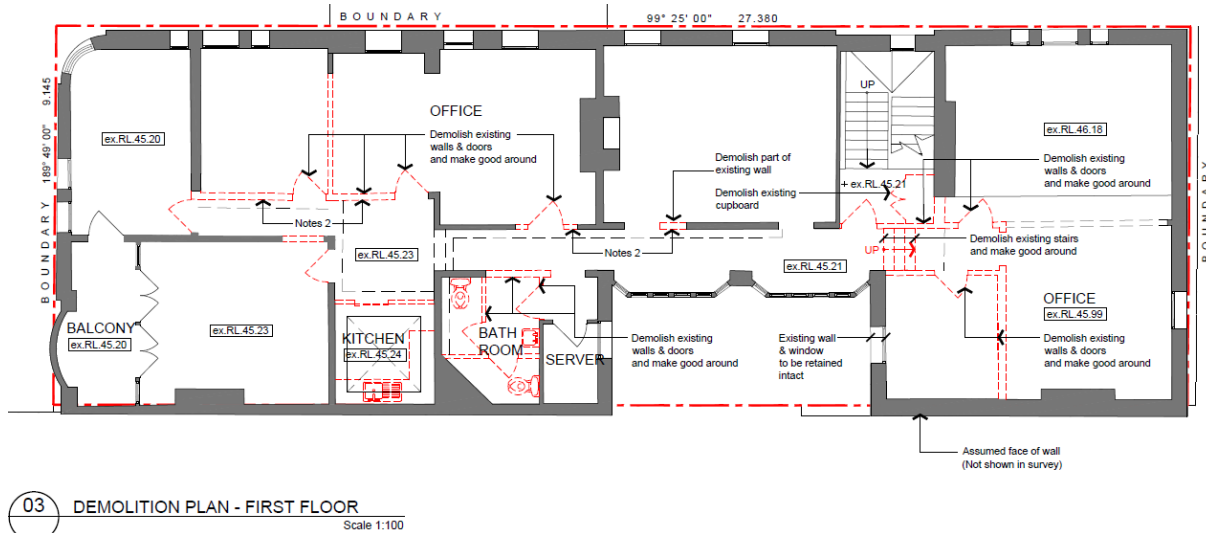


Figure 19: First Floor Level Demolition Plan

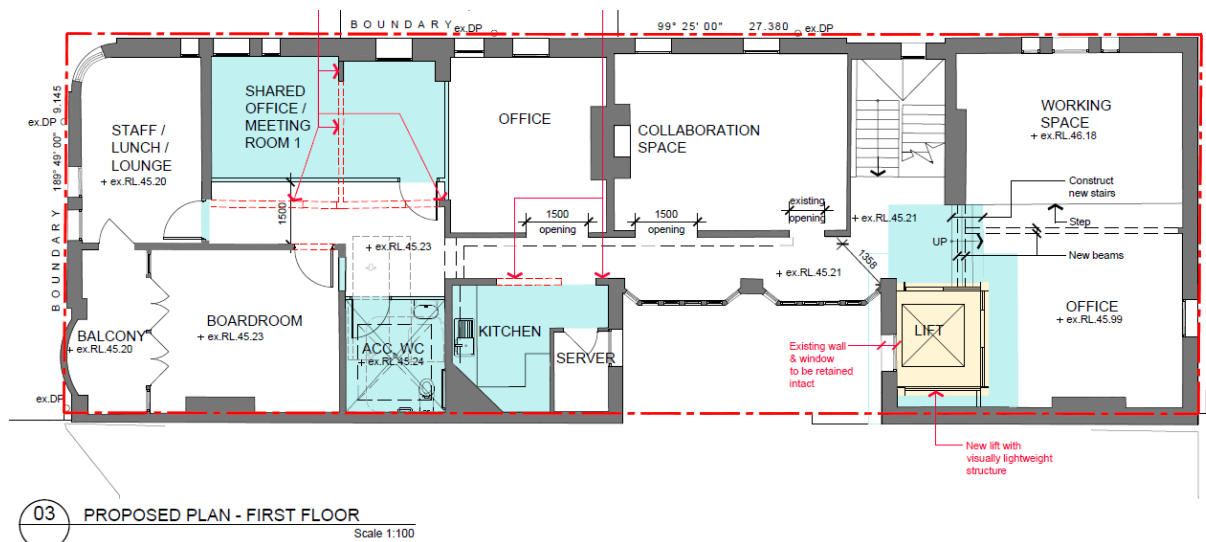


Figure 20: First Floor Level Proposed Plan



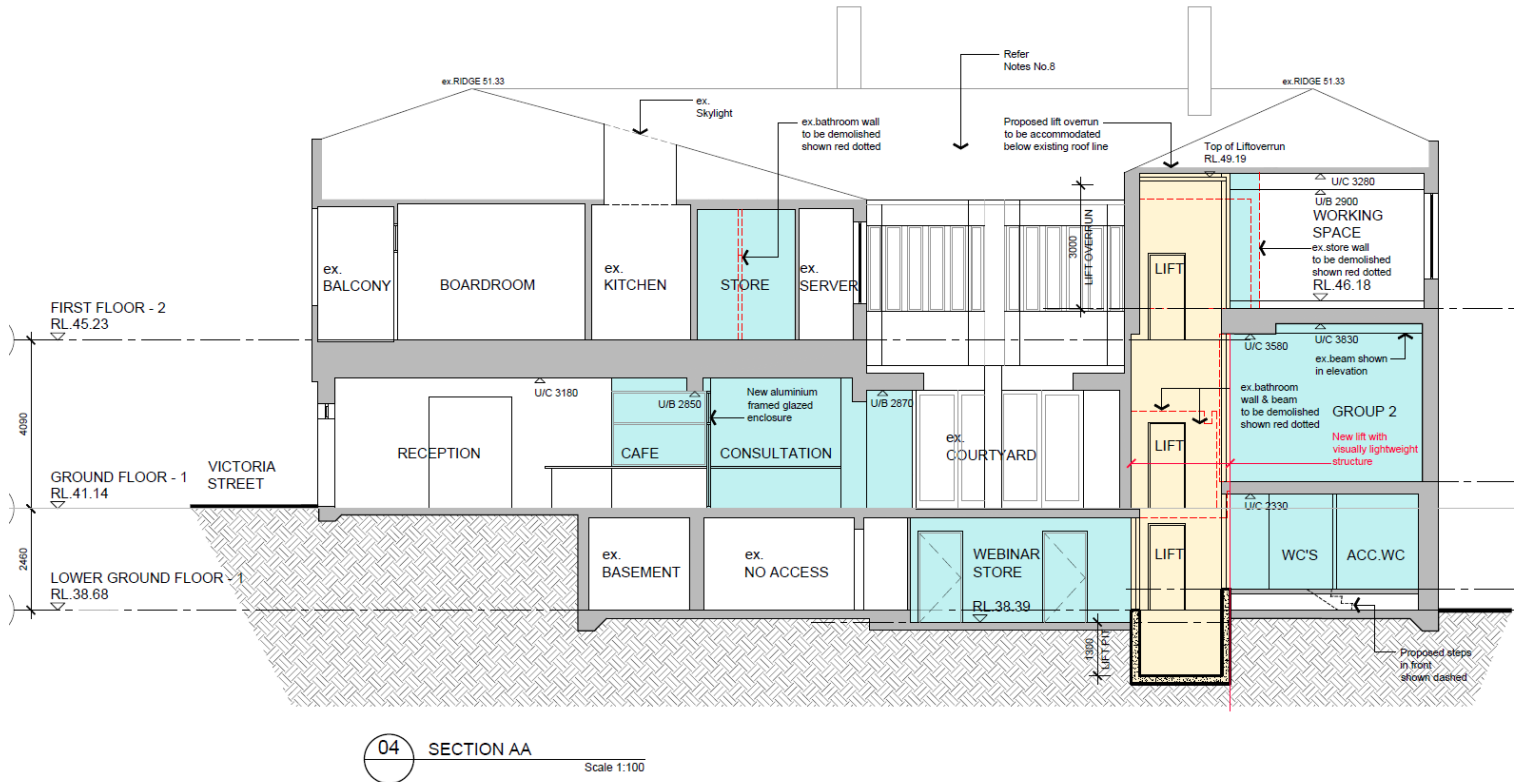


Figure 21: Proposed west-east section

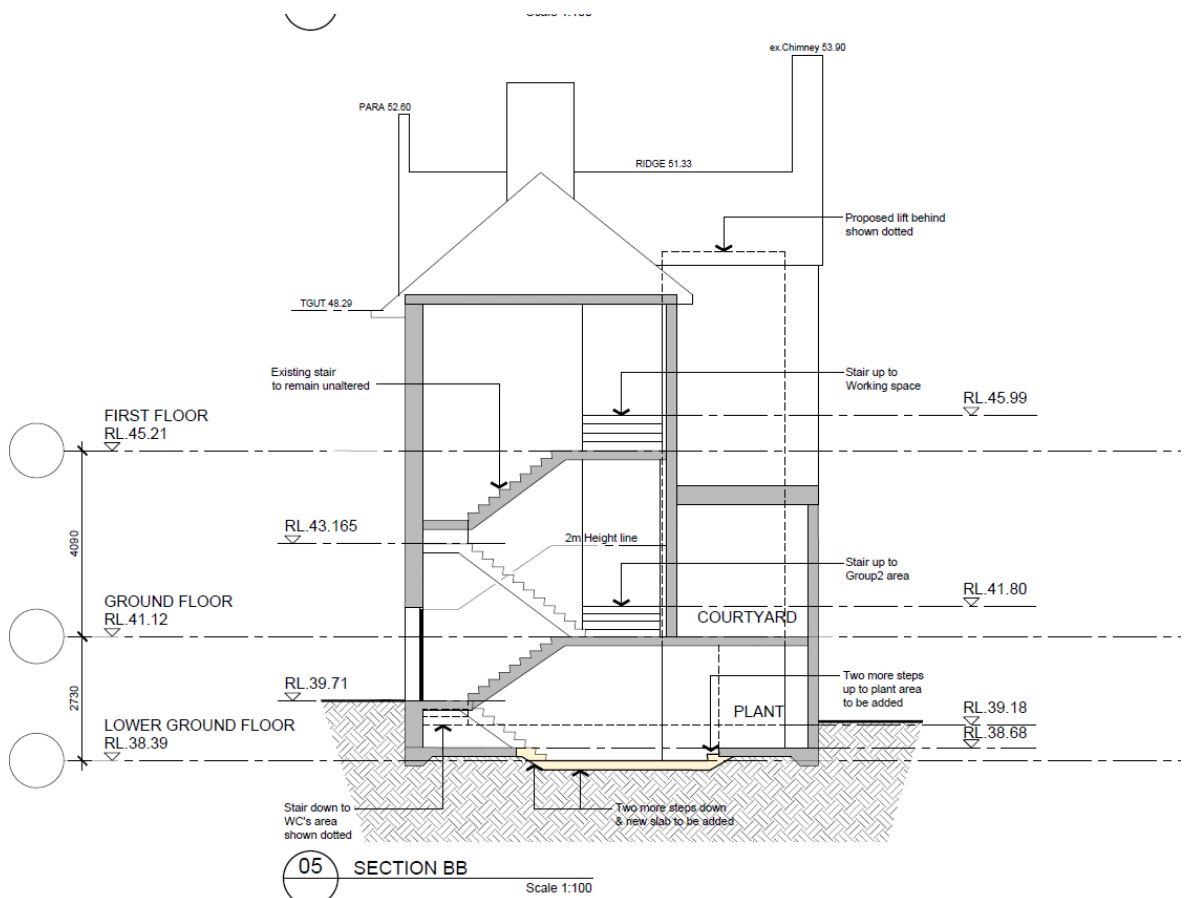


Figure 22: Proposed north-south section

## Assessment

16. The proposed development has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act).

## Environmental Planning and Assessment Regulation 2021

17. Schedule 6, Part 1(3) of the Environmental Planning and Assessment Regulation 2021 states that:

"The 2000 Regulation continues to apply instead of this Regulation to a development application and an application for a complying development made but not finally determined before 1 March 2022"
18. The subject development application was made prior to 1 March 2022 and the Environmental Planning and Assessment Regulation 2000 applies to the proposal as a result.
19. The proposal can achieve compliance with the Building Code of Australia as required under prescribed condition - EP&A Regulation 2000 clause 98(1)(a).

## State Environmental Planning Policies

### State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4

#### Remediation of Land

20. The aim of SEPP (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.
21. In accordance with Clause 4.6 of the Policy, the consent authority must consider a preliminary site investigation report before determining any application to carry out development that would involve a change of use for residential, educational, recreational, or child care purposes, or for the purposes of a hospital.
22. The application proposes a change of use to the site for the purpose of a medical centre (mental health service). The proposed change of use is distinct from a generalised hospital use and is therefore not privy to the requirements outlined under this clause.
23. Council's Health and Building Unit has reviewed the proposal and is satisfied that the site is suitable for the proposed use.

### Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter

#### 10 Sydney Harbour Catchment

24. 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.

25. 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

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

#### Part 2 Permitted or prohibited development

Provision	Compliance	Comment
2.3 Zone objectives and Land Use Table	Yes	<p>The site is located in the B4 Mixed Use zone. The proposed development has several land uses, which are set out as follows:</p> <ul style="list-style-type: none"> <li>• Medical Centre (Mental Health Service);</li> <li>• Office Premises; and</li> <li>• High Technology Industry (Webinar Studio).</li> </ul> <p>All of the above uses are permissible with consent in the zone. The proposal generally meets the objectives of the zone.</p>

#### Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	Yes	<p>A maximum building height of 18m is permitted.</p> <p>A height of 10.8m is proposed, which is consistent with the height of the existing building.</p> <p>The proposed development complies with the maximum height of buildings development standard.</p>
4.4 Floor space ratio	Yes	<p>A maximum floor space ratio of 2:1 or 500.8sqm is permitted.</p>

Provision	Compliance	Comment
		<p>A floor space ratio of 1.69:1 or 423.18sqm is proposed.</p> <p>The proposed development complies with the maximum floor space ratio development standard.</p>

#### Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	Yes	<p>The site is a local heritage item, listed as item no. I491 'Green Park Hotel including interior'.</p> <p>The site is located within the Oxford Street and Victoria Street heritage conservation area (C12). The site is identified as a contributing building.</p> <p>Subject to conditions, the proposed development will not have a detrimental impact on the heritage significance of the heritage conservation area and the heritage item.</p> <p>See further details in the 'Discussion' section below.</p>

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

Provision	Compliance	Comment
Division 2 Additional floor space outside Central Sydney		
6.13 End of journey floor space	N/A	The proposed development is not eligible for additional (end of journey) floor space given that the proposed use is not solely for the purpose of commercial premises.
Division 4 Design excellence		
6.21 Design excellence	Yes	The proposed development, as amended, is of a high standard and uses materials and detailing which are compatible with the existing development along the street and will contribute positively to the character of the area.

Provision	Compliance	Comment
		<p>The proposed development is largely restricted to internal alterations and additions and will not significantly alter the existing envelope, form and external appearance of the building.</p> <p>Internally, the historic character of the building is largely retained and interpreted, notwithstanding the change in use. See further details in the 'Discussion' section below.</p> <p>The proposed uses are compatible with the existing mix of land uses in the immediate locality, particularly the adjoining health uses associated with St Vincent's Hospital.</p> <p>The development achieves the principle of ecologically sustainable development and has an acceptable environmental impact with regard to the amenity of the surrounding area and future occupants.</p> <p>The development therefore achieves design excellence.</p>

### Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
Other land uses	Yes	No car parking spaces are proposed by the development.
Division 3 Affordable housing		
7.13 Contribution for purposes of affordable housing	N/A	The application is for alterations to an existing building located on residual land that will not result in the creation of 60 square metres or more of gross floor area (GFA) for purposes other than residential accommodation. The development is therefore excluded and is not subject to a Section 7.13 affordable housing contribution.

Provision	Compliance	Comment
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes	The site is located on land with class 5 Acid Sulfate Soils. The application does not propose works requiring the preparation of an Acid Sulfate Soils Management Plan.

## Development Control Plans

### Sydney Development Control Plan 2012

27. 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

28. The site is located within the Taylor Square and Darlinghurst Civic Precinct locality. The proposed development is in keeping with the unique character and the design principles of the locality in that it effectively responds to the subject heritage item. The proposed development largely relates to internal alterations and additions and will have a negligible impact upon the wider heritage conservation area and streetscape in general.

#### Section 3 – General Provisions

Provision	Compliance	Comment
3.2. Defining the Public Domain	Yes	<p>The development proposes appropriate interfaces with the public domain.</p> <p>The proposed development addresses both Victoria and Liverpool Streets and the public domain through its retention of the existing façade, active ground floor uses, glazing and awnings.</p> <p>The proposed development retains the existing building entries, with improvements to the main building entry from Victoria Street.</p> <p>Given the sensitive nature of the ground floor uses, it is expected a degree of privacy will be required at certain times when the consulting rooms are in use.</p>

Provision	Compliance	Comment
		A condition is recommended requiring the applicant to submit details of an internal privacy solution for the window and door openings to the consultation room on the ground floor that does not involve permanent obscured glazing.
3.9 Heritage	Yes	<p>The site is a local heritage item, listed as item no. I491 'Green Park Hotel including interior'.</p> <p>The site is located within the Oxford Street and Victoria Street heritage conservation area (C12). The site is identified as a contributing building.</p> <p>Subject to conditions, the proposed development will not have a detrimental impact on the heritage significance of the heritage conservation area and the heritage item.</p> <p>See further details in the 'Discussion' section below.</p>
3.10 Significant Architectural Building Types 3.10.3 Pubs and hotels older than 50 years	Yes	<p>The proposed development will have a negligible impact to the existing external design details of the building.</p> <p>Significant internal design details such as the main bar, ceiling details, fireplaces, wall tiles and bar tiles will be largely retained and remain unobscured.</p> <p>While the proposed use will not provide for the immediate ongoing historic use as a pub, the proposed alterations and additions to the interior will retain significant fabric and building elements from all periods of construction, allowing for potential future reinstatement of the use.</p> <p>See further details in the 'Discussion' section below.</p>
3.11 Transport and Parking	Yes	No car parking spaces are proposed by the development.

Provision	Compliance	Comment
		Bike parking and associated facilities have been proposed consistent with the rates set out in Section 3.11.3 of the Sydney DCP 2012, inclusive of 4 secure staff bicycle parking spaces, 4 personal lockers, and a shower with change facilities.
3.12 Accessible Design	Yes	<p>Accessibility within the building is greatly improved through the introduction of the proposed internal lift.</p> <p>The accessibility report provided by the applicant demonstrates that the proposed development will be able to achieve equitable access.</p> <p>Compliance with the National Construction Code is required to be demonstrated prior to the issue of a Construction Certificate.</p>
3.13 Social and Environmental Responsibilities	Yes	The proposed development retains the active frontage on the ground floor level via the retention of the facade, windows, and building entries and is therefore able to provide adequate passive surveillance and is generally designed in accordance with the CPTED principles.
3.14 Waste	Yes	A condition is recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.
3.15 Late Night Trading Management	Yes	<p>The premises is located in a Local Centre Area and the use is defined as a category C premises.</p> <p>In accordance with Section 3.15.4 of the Sydney DCP 2012, the permitted base hours are 7.00am - 2.00am the following day.</p> <p>The proposed operating hours of the mental health facility components on the ground floor level are 8.00am - 10.00pm, Monday to Sunday inclusive.</p>



Provision	Compliance	Comment
		<p>The proposed operating hours of the webinar studio and office spaces located on the lower ground floor level and first floor level are 8.00am - 6.00pm, Monday to Friday inclusive.</p> <p>The proposed operational details are compliant with the relevant Late Night Trading provisions.</p>
3.16 Signage and Advertising	N/A	<p>No signage has been proposed under this application.</p> <p>A condition of consent has been recommended to ensure a separate development application must be lodged seeking approval for a signage strategy for the building and for the subsequent erection of any additional signage.</p>

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

Provision	Compliance	Comment
4.2.1 Building height		
4.2.1.1 Height in storeys and street frontage height in storeys	Yes	<p>The site is permitted a maximum building height of 5 storeys with a maximum street frontage height of 4 storeys.</p> <p>The proposed development is contained within the existing 2-3 storey building and complies.</p>
4.2.1.2 Floor to ceiling heights and floor to floor heights	N/A	<p>The proposed use of the building is for the purposes of a medical centre (mental health service).</p> <p>Existing floor to ceiling heights will remain unaltered.</p>
4.2.2 Building setbacks	Yes	No changes to building setbacks are proposed.
4.2.3 Amenity		
4.2.3.1 Solar access	Yes	The proposed development will not result in any additional overshadowing.

Provision	Compliance	Comment
4.2.3.3 Internal common areas	Yes	Internal common areas have appropriate access to daylight and an outlook.
4.2.3.4 Design features to manage solar access	Yes	No fixed shading devices or extensive glazing has been proposed. Internal privacy measures have been recommended. These may also act as sun protection.
4.2.3.5 Landscaping	N/A	The existing building is built to the site boundary.  There are no existing landscaping features on the site and there remains limited opportunity for landscaping on the site given the existing footprint of the building on site.
4.2.3.6 Deep Soil	Partial compliance	No deep soil is currently provided on the site, nor can any deep soil be proposed based on the existing footprint of the building on site.
4.2.3.11 Acoustic privacy	Yes	The acoustic privacy of adjacent residential uses is unlikely to be impacted by the proposed use given the sensitive and personal nature of the operations associated with a mental health facility and the absence of any late night trading past 10.00pm.  It is also important to note that the proposed use is a deintensification of the historic use of the site as a pub.  The application has been reviewed by Council's Health and Building Unit who advised that the proposal is acceptable subject to conditions.
4.2.6 Waste and recycling Management	Yes	A condition is recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.

Provision	Compliance	Comment
4.2.9 Non-residential development in the B4 Mixed Uses Zone	Yes	Subject to conditions, the development will not adversely impact the amenity of neighbouring residential properties.

## Discussion

### Heritage

29. The site is a local heritage item, listed as item no. 1491 'Green Park Hotel including interior'. The site is located within the Oxford Street and Victoria Street heritage conservation area (C12) and is identified as a contributing building.
30. The State Heritage Inventory identifies the Green Park Hotel as having local historic, aesthetic and social significance. The assessment of significance is reproduced below:

Criteria a) Historical Significance - Dates from a key period of the development of Darlinghurst and represents a period of the history of the area when it was predominantly working class. There has been a hotel on the site continuously since at least 1880.

Criteria c) Aesthetic/Technical Significance - It has aesthetic significance as a fine example of a Federation hotel, with influences of Free Classical and Arts and Crafts styles, located on a prominent corner which strongly contributes to the streetscape.

Criteria d) Social Significance - The hotel is held in high esteem as a social and recreational venue for nearby workers and residents.

Criteria g) Representative - Representative example of a Federation period hotel demonstrating influences of the Free Classical and the Arts and Crafts styles.

31. The proposal to change the use of the Green Park Hotel to a medical centre (mental health service) use has the potential to impact upon the historical and social significance of the site by discontinuing the historic use of the site as a pub.
32. The site has been used continuously as a pub since the late nineteenth century. As a result, there is significant historical and social value tied to the building through this use. In particular, it is important to acknowledge the social significance that the historic use as a pub has to the LGBTQI+ community, to whom it has existed as an important meeting place and centre for social interaction.
33. While the use of the site as a pub is original and significant, there are no relevant planning controls that require either the use to be continued in perpetuity or that prevent it from being changed.
34. The proposed development seeks to change the use to a medical centre (mental health service) which is a use permissible use within the B4 - Mixed Use zone.

35. Section 3.9.5(1)(d) of the Sydney DCP 2012 establishes that any development affecting a heritage item is to provide a use compatible with its significance and which with any changes proposed, including any BCA upgrade or the introduction of services will have minimal impact on significant fabric, elements or spaces.
36. The process of reusing an existing building for a purpose other than which it was originally built or designed for is a practice commonly known as 'adaptive re-use'. The practice is identified in the Burra Charter as 'adaption' and is subject to the following principles:
- 21.1 Adaptation is acceptable only where the adaptation has minimal impact on the cultural significance of the place.
- 21.2 Adaptation should involve minimal change to significant fabric, achieved only after considering alternatives.
37. The proposed use, while having some impact on the social significance of the building as a pub, will enable a continuation of its community focused use by providing the local community with a dedicated space where people can readily seek mental health support. The continuation of such a community focused use does not diminish the social significance of the site but rather enables an appropriate transition and evolution of this significance to cater for the changing needs of the community.
38. Further, the proposed facility will extend the social presence of St Vincent's Hospital for the community. The State Heritage Inventory identifies the social significance of this institution within the Oxford Street and Victoria Street Heritage Conservation Area as detailed below:
- The area has historic significance for the important institutions that are to be found within it including St. Vincent's Hospital, the Sacred Heart Church, School (former) and Hospice and St. John's Church and School (former). Considerable social significance arises out of the presence of these institutions for over 150 years.
39. The proposed change of use reflects the social changes in Darlinghurst from its working class roots to a highly valued and required health precinct and the ability of the building to be adaptively reused to remain relevant and maintained.
40. The proposed use in principle is considered compatible with the significance of the site, is an appropriate response to the surrounding character of the area and will not have an unreasonable impact on the cultural significance of the place.
41. This assessment is further supported by the physical works proposed, which through consultation as part of the assessment of this application, are to be amended as discussed under the sub heading 'Amendments' above.
42. The proposed physical works, as amended, will have minimal impact on significant fabric, elements and spaces, allowing the original use of the building as a pub to be effectively understood through retention of significant elements such as the wall and bar tiles, staircases, fireplaces, ceiling and layout of the main bar.
43. The proposed works are limited to the interior fabric of the building and will have a negligible impact to the existing external design details of the building, retaining its aesthetic and representative significance to the streetscape.

44. Retention and continued display of significant internal fabric, along with sympathetic and reversible alterations as proposed and conditioned, will allow for potential future removal of new work and increase the potential of the historic pub use being reinstated in the future.
45. Overall, on balance the revised design and proposed change of use will not unreasonably reduce or obscure the heritage significance of the item and will have no significant impact on the wider heritage conservation area or the buildings contribution to the area.
46. The proposed development, as amended, has been reviewed by Council's Heritage Specialists and is supported subject to several recommended conditions of consent, including but not limited to, the requirement of a schedule of heritage conservation works, heritage interpretation plan, photographic archival documentation and the continued use of a heritage consultant throughout the construction stages of the project.

## **Consultation**

### **Internal Referrals**

47. The application was discussed with Council's:
  - (a) Building Services Unit;
  - (b) Environmental Health Unit;
  - (c) Heritage & Urban Design Unit;
  - (d) Public Domain Unit;
  - (e) Transport and Access Unit; and
  - (f) Waste Management Unit.
48. 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**

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

### **Advertising and Notification**

51. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified for a period of 21 days between 20 January 2022 and 11 February 2022. A total of 174 properties were notified and 29 unique submissions were received.

52. The submissions raised the following issues:

- (a) **Issue:** The subject site holds important social and cultural significance to the local community and several minority groups. The intangible heritage of the site needs to be considered and preserved.

**Response:** It is acknowledged that there is significant historical and social value tied to the building through its historic use as a pub, in particular to the LGBTQI+ community.

The proposed use, while having some impact on the social significance of the building as a pub, will however continue to provide a use that is community focused and addresses an important community need. Notwithstanding the obvious differences in the nature of the two uses, the proposed mental health facility will continue to act as a hub for social connection and a place where inclusiveness and diversity is welcomed and valued.

To this effect, it is considered that the intangible heritage of the site and its social and cultural significance can be interpreted and continued through the proposed use as mental health facility.

- (b) **Issue:** The historic use of the site as a pub should be continued.

**Response:** While the use of the site as a pub is original and significant, there are no relevant planning controls that require either the use to be continued in perpetuity or that prevent it from being changed.

While the proposed use will not provide for the immediate ongoing historic use as a pub, the proposed alterations and additions to the interior will retain significant fabric and building elements from all periods of construction, providing the greatest opportunity for potential reinstatement of the use in the future.

- (c) **Issue:** An alternative location within the locality would be more suitable for this use.

**Response:** The site is located in the B4 Mixed Use zone. The proposed use is permissible with consent in the zone and the proposal generally meets the objectives of the zone.

- (d) **Issue:** The proposed development will remove and conceal significant heritage fabric.

**Response:** The proposed physical works, as amended, will have acceptable impact on significant fabric, elements and spaces, allowing the original use of the building as a pub to be effectively understood through retention of significant elements such as the wall and bar tiles, staircases, fireplaces, ceiling and layout of the main bar.

The proposed works are largely limited to the interior fabric of the building and will have a negligible impact to the existing external design details of the building, retaining its aesthetic and representative significance to the streetscape.

- (e) **Issue:** The historic use of the site as a pub provided an existing, informal form of mental health support through social interaction.

**Response:** As discussed, while the use of the site as a pub is original and significant, there are no relevant planning controls that require either the use to be continued in perpetuity or that prevent it from being changed.

Notwithstanding this, the proposed use will continue to serve the community, and provide mental health support, albeit in a different, more targeted and formalised manner.

- (f) **Issue:** The proposed hours of operation are not clear.

**Response:** The proposed operating hours of the mental health facility components on the ground floor level are 8.00am - 10.00pm, Monday to Sunday inclusive.

The proposed operating hours of the webinar studio and office spaces located on the lower ground floor level and first floor level are 8.00am - 6.00pm, Monday to Friday inclusive.

- (g) **Issue:** The addition of another health use will impact on the character of the locality.

**Response:** The proposed mental health facility will extend the social presence of St Vincent's Hospital for the community. The State Heritage Inventory identifies St Vincent's Hospital as an important institution that holds considerable social significance arising from its presence in the locality for over 150 years. .

- (h) **Issue:** The change of use will result in a loss to nearby business.

**Response:** The proposed use will reactivate the site which is currently vacant. The proposed use will generate employment and provide an active use that intends to service the local community and people travelling from other parts of Sydney to use the facility.

- (i) **Issue:** The proposed use is not required as visitor numbers to the area are decreasing and there are other existing facilities.

**Response:** The proposed use is considered to support the viability of the locality and is considered an appropriate extension to the existing array of health uses in the immediate vicinity of the site. The main intent of the proposed use is to service the local community.

- (j) **Issue:** By moving the proposed use from St Vincent's Hospital to a more residential area, this is likely to introduce some security and safety concerns held by members of the community.

**Response:** The proposed use is permissible with consent within the B4 Mixed Use Zone. This zone seeks to provide a mixture of compatible land uses, including residential uses and other uses.

The proposed use (a notable deintensification of the historic use of the site as a pub) is proposed to operate between the hours of 8.00am - 10.00pm, Monday to Sunday inclusive.

When open, the proposed facility will be constantly staffed by clinicians, peer workers and volunteers who will be monitoring patients entering and exiting the facility. Further, the building has been designed to provide adequate passive surveillance at ground floor level.

The proposed use is therefore not considered to result in an unreasonable impact to the level of security and safety experienced by neighbouring residents.

## **Financial Contributions**

### **Contribution under Section 7.11 of the EP&A Act 1979**

53. The development is not subject to a Section 7.11 development contribution as it will not result in a net population increase in accordance with Section 2.1 of the Plan and is therefore excluded from the need to pay a contribution.

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

54. As the development is development located in residual lands 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 as is not subject to a Section 7.13 affordable housing contribution.

## **Relevant Legislation**

55. Environmental Planning and Assessment Act 1979.

## **Conclusion**

56. The proposal, as amended, is compatible with the significance of the site, is an appropriate response to the surrounding character of the area, and will not have an unreasonable impact on the cultural significance of the place.
57. The design changes to the development are well considered and the applicant has responded positively to comments from Council officers.
58. Having regard to the above, the proposed development will not result in any adverse impacts to both the natural and built environment and the locality, is suitable for the site, and is in the public interest, subject to recommended conditions of consent.



59. The proposed development generally satisfies the relevant provisions of the applicable State Environmental Planning Instruments including the Sydney Local Environmental Plan 2012 and the Sydney Development Control Plan 2012 and is acceptable.
60. Issues raised in all submissions have been taken into account in the assessment, and, where appropriate, conditions of consent have been included in the Notice of Determination to address these issues.

**ANDREW THOMAS**

Executive Manager Planning and Development

Connor Mayoh, Planner