

Item 8.**Development Application: 18-20 York Street, Sydney - D/2024/520**

File No.: D/2024/520

Summary**Date of Submission:** 2 July 2024

Amended plans and additional information: 30 August, 3 October and 21 October 2024

Applicant: Caladines Town Planning Pty Ltd**Architect:** Studio Vista**Owner:** Pacvale Pty Limited**Cost of Works:** \$284,715**Zoning:** SP5 Metropolitan Centre

Proposal Summary: The proposed development application seeks consent for alterations and additions and use of the ground and basement level at 18-20 York Street, Sydney as a restaurant, bar and live music venue. The proposed hours of operation are 10.00am to 4.00am (the following day), Monday to Sunday and the proposed combined capacity of the premises is 371 patrons.. The existing building is a local heritage item under the Sydney Local Environmental Plan 2012.

The application is reported to the Local Planning Panel for determination as it is a nominated sensitive development type being a new licensed premises seeking to operate under an on-premises liquor license for a 'public entertainment venue' as defined under the Liquor Act 2007.

The application was notified for a period of 21 days between 4 July and 25 July 2024. A total of 161 properties were notified and no submissions were received.

During the assessment of the application, further information and clarification was sought from the applicant in relation to access to the basement tenancy, waste storage, compliance with the BCA/NCC, clarification of operational details of the future use, including liquor

licence type and plan of management updates. Amended plans and supporting information was submitted to address the above matters on 30 August, 3 October and 21 October 2024.

The proposed use is defined as a Category A premises and is located within a designated Late Night Trading area under the Late Night Trading provisions of the Sydney Development Control Plan 2012 (SDCP 2012).

The proposed hours of operation of the both the ground floor food and drink premises and basement live music venue comply with the permitted base and extended hours in the SDCP 2012. It is recommended that the consistent with the DCP extended hours of operation, that the hours of operation between 12 midnight and 4.00am, Monday to Sunday, are approved under a trial period, commencing with a 2 year trial from the date of issue of an occupation certificate. Subject to conditions, the proposal is generally consistent with the objectives and applicable planning provisions in the Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.

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

Development Controls:

- (i) Environmental Planning and Assessment Act 1979
- (ii) Environmental Planning and Assessment Regulation 2021
- (iii) Heritage Act 1977
- (iv) SEPP (Industry and Employment) 2021
- (v) SEPP (Biodiversity and Conservation) 2021
- (vi) Sydney Local Environmental Plan 2012
- (vii) Sydney Development Control Plan 2012
- (viii) Central Sydney Development Contributions Plan 2020

Attachments:

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Plan of Management

Recommendation

It is resolved that consent be granted to Development Application Number D/2024/520 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 is consistent with the objectives of the SP5 Metropolitan Centre zone.
- (B) The proposal generally satisfies the objectives and provisions of the Sydney Local Environmental Plan 2012, subject to conditions.
- (C) The proposal is consistent with the relevant objectives of the Sydney Development Control Plan 2012, subject to conditions.
- (D) Subject to the recommended conditions of consent, the proposed development will have an acceptable impact on the amenity the site locality and will not result in unreasonable additional adverse environmental impacts to adjoining sites. Conditions of consent are recommended to ensure the uses are managed in an appropriate manner in accordance with the endorsed Plan of Management and relevant standards.

Background

The Site and Surrounding Development

1. The site has a legal description of Lot 1 DP 432685 and is known as 18-20 York Street, Sydney. It is rectangular in shape with an area of approximately 487sqm. The site has a street frontage of 22 metres to York Street and is located near the intersection of York Street and Barrack Street to the north.
2. The site contains a multi-storey commercial building which has historically included ground and basement level food and drink premises, with office uses on the above floors. The site is a local heritage item identified as item I1974 under Schedule 5 of the Sydney LEP 2012 and is known as the 'Former "John Solomon" warehouse'. The building is an example of a late Victorian era warehouse.
3. The surrounding area is characterised by a mixture of land uses, primarily being commercial. 14-16 York Street directly adjoins the subject site to the north and includes business and food and drink premises on the ground floor with office premises above. 22-26 York Street directly adjoins the subject site to the south and includes a car park entry and food and drink premises with office premises above. The sites across York Street, being 71 York Street and 65-69 York Street, maintain similar uses which are not considered to be sensitive receivers. The site is not identified as being subject to flooding.
4. A site visit was carried out on 22 July 2024. Photos of the site and surrounds are provided below.



Figure 1: Aerial view of site and surrounds



Figure 2: Site viewed from York Street facing southeast. Red door is proposed entry to basement live music venue



Figure 3: Ground floor facing west toward York Street

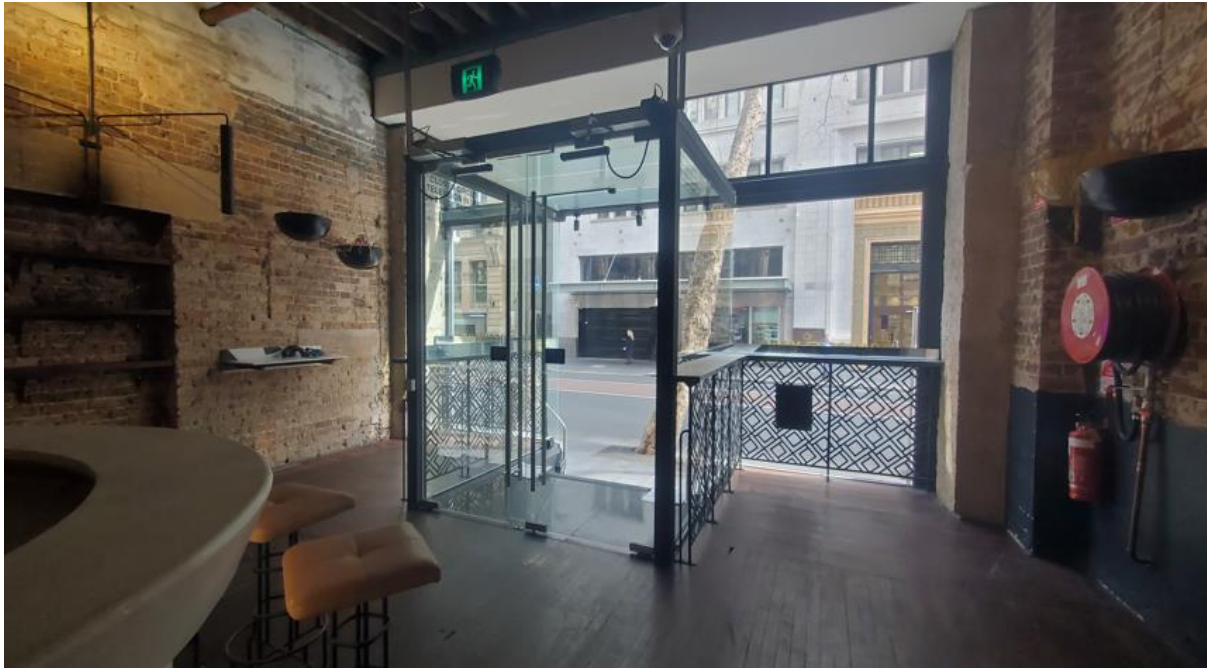


Figure 4: View of existing ground floor entrance from York Street



Figure 5: Ground floor facing southeast



Figure 6: Ground floor facing northeast toward mezzanine



Figure 7: View of mezzanine from ground floor facing north



Figure 8: View of ground floor and mezzanine facing northeast



Figure 9: Existing stairs to basement level viewed from ground floor (proposed to be demolished as part of the subject application)



Figure 10: Existing kitchen viewed from ground floor facing northeast



Figure 11: Existing stairs to basement level facing west (proposed to be demolished)



Figure 12: Existing basement level bathrooms facing west

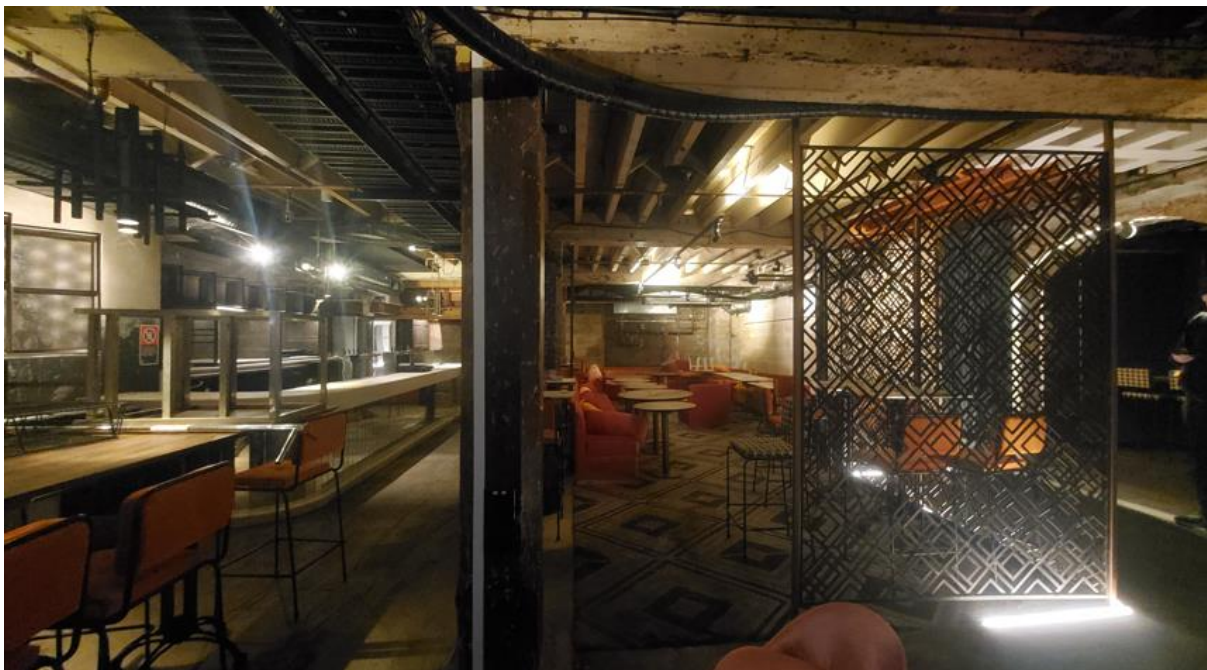


Figure 13: Basement level facing west toward existing bar and seating area



Figure 14: Existing bar area on basement level



Figure 15: Basement level facing north



Figure 16: Existing bar area on basement level facing southeast



Figure 17: Basement level facing northeast toward existing lifts



Figure 18: Basement level facing north toward existing seating area



Figure 19: Basement level facing south toward existing seating area



Figure 20: View of existing keg store room on basement level



Figure 21: Existing basement level services room facing east



Figure 22: Existing bin storage area facing east

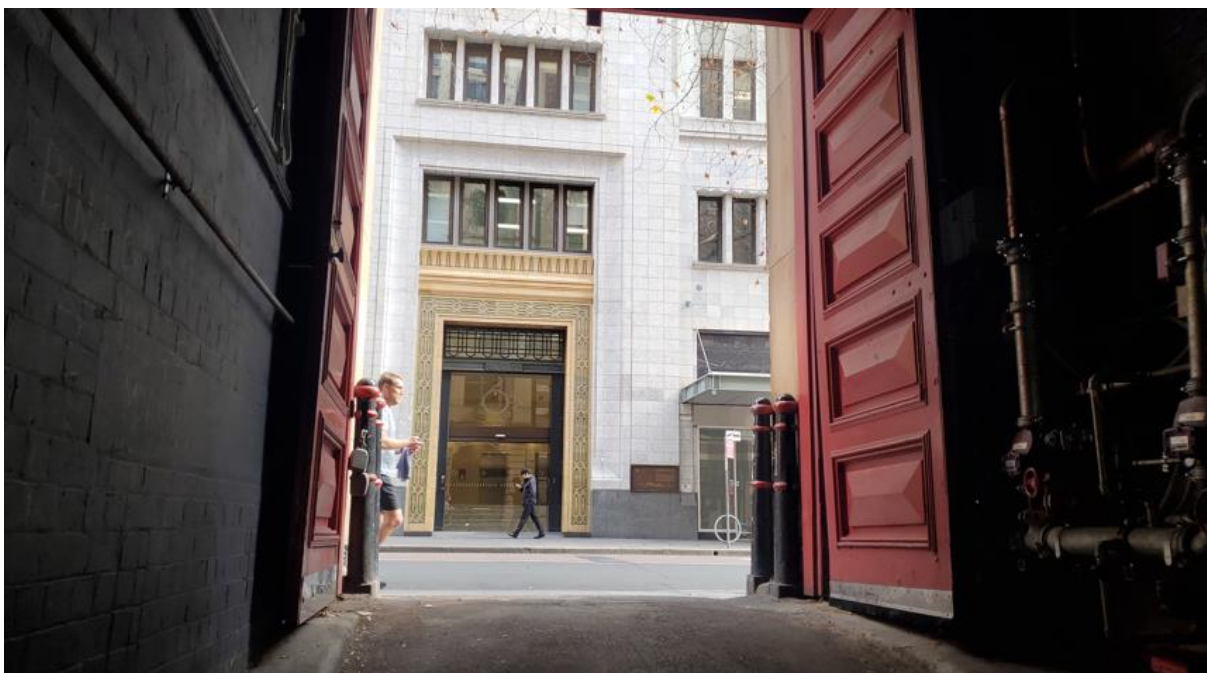


Figure 23: View of York Street from existing bin storage area

History Relevant to the Development Application

Development Applications

5. The following applications are relevant to the current proposal and in particular, the approved use as a licensed food and drink premises across both the basement and ground floor levels of the building:

- **D/2014/322** - Development consent was granted on 1 August 2014 for the change of use and associated alterations to the basement and part of the ground floor level to a licensed restaurant and cafe for 400 patrons.
 - **D/2018/1566** – Development consent was granted on 22 March 2019 for refurbishment of existing licensed restaurant and cafe, and separation of restaurant and cafe into two tenancies located at basement/part ground and part ground level respectively.
 - **D/2018/1566/A** – A Section 4.55(2) modification application was granted on 27 August 2019 to amend the approved trading hours of the licensed restaurant, and signage. The approved hours were between 8.00am and 2.00am (the following day), Monday to Saturday, and between 10.00am and 10.00pm on Sunday. The approved restaurant capacity was for 334 patrons. This consent approved the existing 600x600mm projecting wall sign located at the northern end of the site.
 - **D/2018/1566/B** – The development consent was modified on 24 September 2020 to refurbish the existing cafe at tenancy 2 on the ground floor; increase the seating capacity of the cafe to 32, provide new external signage, and delete Condition 6 to allow direct service from the cafe to the footpath. This cafe tenancy is outside the lease area to which the subject application relates.
 - **D/2018/1566C** – The modification application proposed change of use, physical works and a significant increase to patron capacity and therefore was not considered to be substantially the same development. This modification was withdrawn and re-lodged as the subject application D/2024/520.
6. The following applications are relevant to the adjoining food and drink premises at 22-26 York Street (currently known as “The Bavarian”).
- **D/2003/426** – A development application was granted on 26 August 2003 for extension of trading hours and increased patrons at the ground floor restaurant. Approved permanent hours of operation are 7.30am to 12.00 midnight Monday to Saturday and 9.00am to 10.00pm on Sundays.
 - This consent has been modified several times up to **Modification E** to renew extended operating hours up to 2.00am daily. Approval has also been granted for use of the footway for outdoor dining, with the most recent footway consent being FA/2021/23 and FA/2024/391 currently under assessment by Council.

Compliance Action

7. The site has not been subject to any relevant compliance action.

Amendments

8. Following a preliminary assessment of the proposed development by Council officers, a request for additional information was sent to the applicant on 29 July 2024. The following information was requested.
 - Clarification around patron access to the basement level, and additional justification for the retention of the existing garbage storage area should this space also be used for access to the basement.
 - Amended architectural plans and Waste Management Plan (WMP) to clearly outline the location of proposed waste storage area and compliance with Guidelines for Waste Management in New Developments.
 - An internal layout plan of the kitchen area and information on specific cooking activities.
 - A BCA Report to demonstrate that the proposal is capable of complying with the relevant access and capacity provisions.
 - An amended Plan of Management to address all the relevant provisions set out in Schedule 3.2 of the DCP.
9. The applicant responded to the request on 30 August 2024, and submitted the required BCA Report, kitchen plans, amended Plan of Management, and information relating to basement access. At this stage, the proposed premises capacity was reduced from 500 persons to 371 persons.
10. An amended Waste Management Plan and bin path of travel plan were provided to Council of 3 October 2024. Upon further review, these documents adequately addressed Council's concerns around waste management, subject to conditions.
11. An amended signage plan was provided on 21 October 2024 after it was communicated to the applicant that the initially proposed top hamper sign at the northern-most doors on the site would not be supported for heritage reasons. The amended signage plan is assessed below.

Proposed Development

12. The proposed development application seeks consent for alterations and additions and use of the ground and basement level at 18-20 York Street, Sydney as a restaurant, bar and live music venue. The proposed hours of operation are 10.00am and 4.00am (the following day), Monday to Sunday and the proposed combined capacity of the premises is 371 persons.
13. The application is reported to the Local Planning Panel for determination as it a nominated sensitive development type being a new licensed premises seeking to operate under an on-premises liquor license for a 'public entertainment venue' as defined under the Liquor Act 2007.
14. A breakdown of the proposed works and an outline of the proposed operation on each level of the premises is below:

Ground floor level:

15. Use of the ground floor level and its mezzanine as a restaurant, including operating hours between 10.00am and 4.00am (the following day), Monday to Sunday, and a capacity of 111 persons. Primary purpose of this use is a restaurant with substantial food service available at all times. The primary entry to this ground floor tenancy is via the existing entry stairs off York Street, with an existing alternative accessible entry available via a platform lift from the building's southern-most entry door.
16. The following works are proposed to the ground floor level as shown on the architectural drawings:
 - Removal of the existing loose furniture.
 - Demolition works - demolish existing bar, cap existing services and make good. Remove existing floor return to existing timber finish. Demolish existing stair between ground level and basement, to be filled in return to match original timber flooring. Structural support to be reinstated.
 - The existing kitchen equipment to be maintained. The proposal does not seek consent for any solid fuel cooking.
 - Alterations and additions to facilitate new fit-out, including conversion of the existing storeroom to amenities, construction of new seating arrangement, hoist station, mezzanine dining area, bar service area, and new prep kitchen and grease arrestor.
 - Noise attenuation works to comply with best practice standards and the recommendations of the acoustic consultant's report.
 - New projecting wall sign and window vinyl signage.

Basement level:

17. Use of the basement level as a live music venue and bar with no allocated seats, including operating hours between 10.00am and 4.00am (the following day), Monday to Sunday, and a capacity of 260 persons. The proposed entry to the basement tenancy is via the northern-most doors from York Street utilising the existing cartway. Again, accessible entry to the basement is via the above mentioned platform form from the York Street frontage and then has lift access.
18. The following works are proposed on the basement floor level as shown on the architectural drawings:
 - Demolition works - demolish part of existing wall to create new opening to basement level. Demolish existing amenities to accommodate new arrival area. Removal of existing stair from ground level. Demolish existing partition installed for stair installation support to create new opening. Demolish existing recessed bar wall. Demolish existing ramp, floor to be feathered to create new level with compliant ramp. The partial demolition of an existing wall for the altered layout of the existing basement storeroom.
 - Existing spiral stair to be maintained for access to mechanical servicing.

- Alterations and additions to facilitate new fit-out, including construction of new arrival stairs and landing. New stairs down into standing/seating area and new stage at dining height.

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

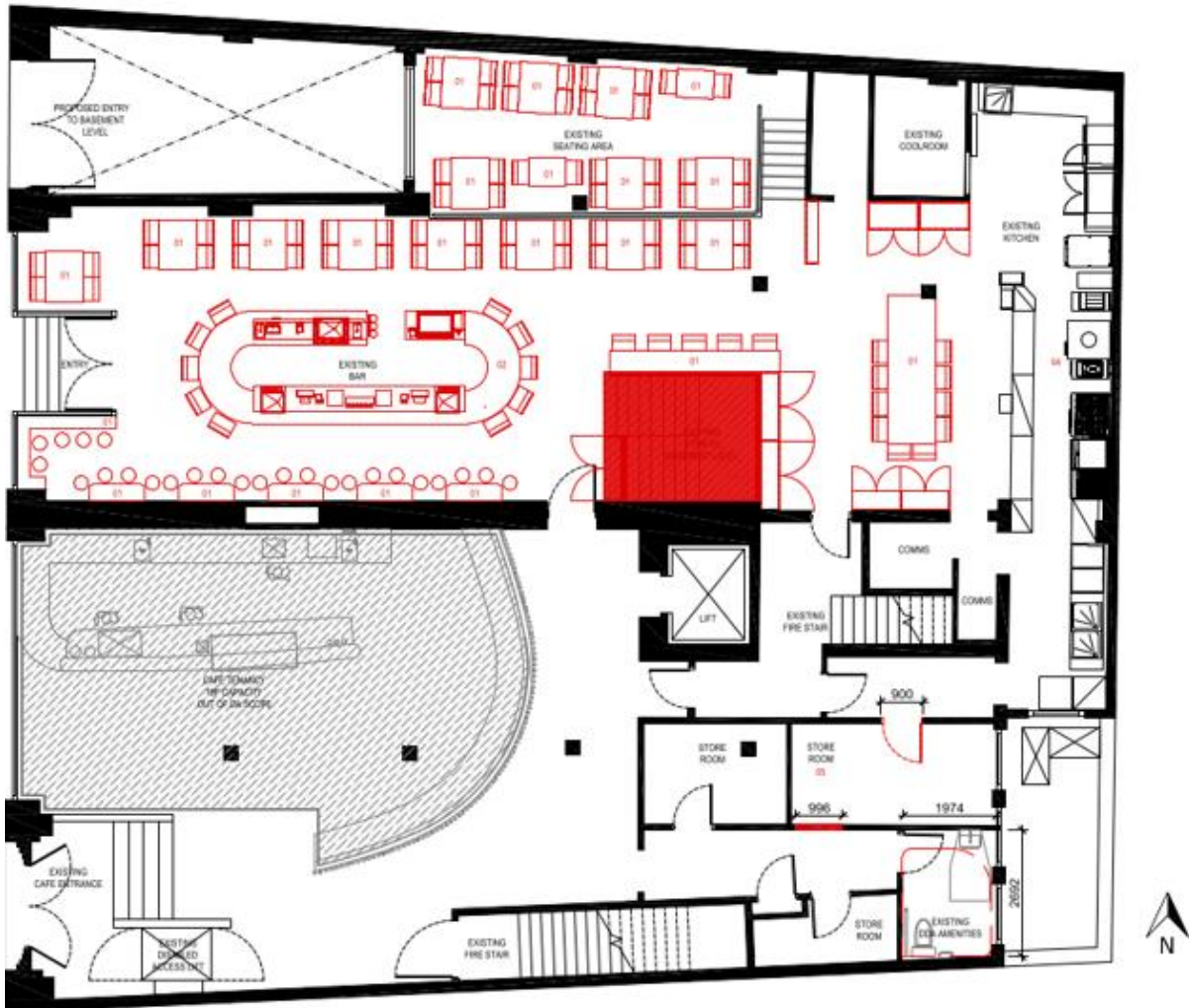


Figure 24: Proposed ground floor demolition plan

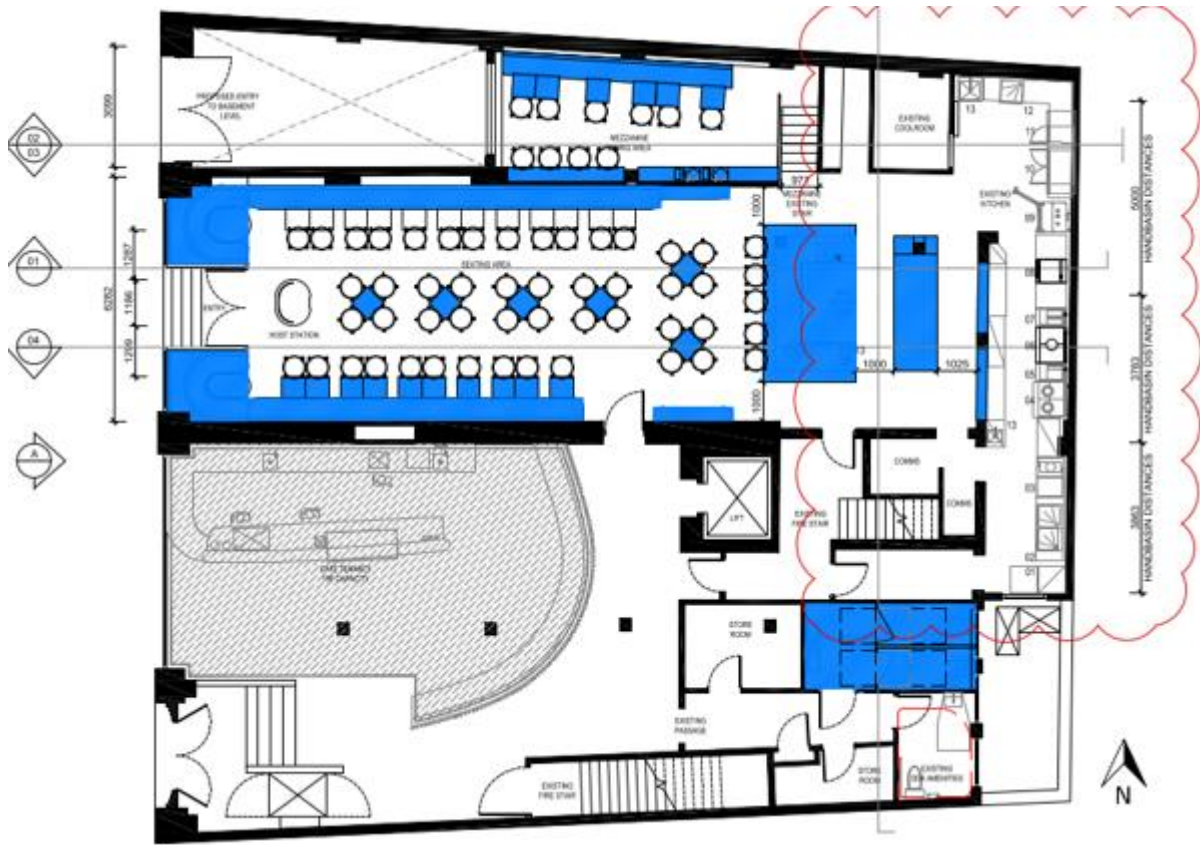


Figure 25: Proposed ground floor general arrangement plan

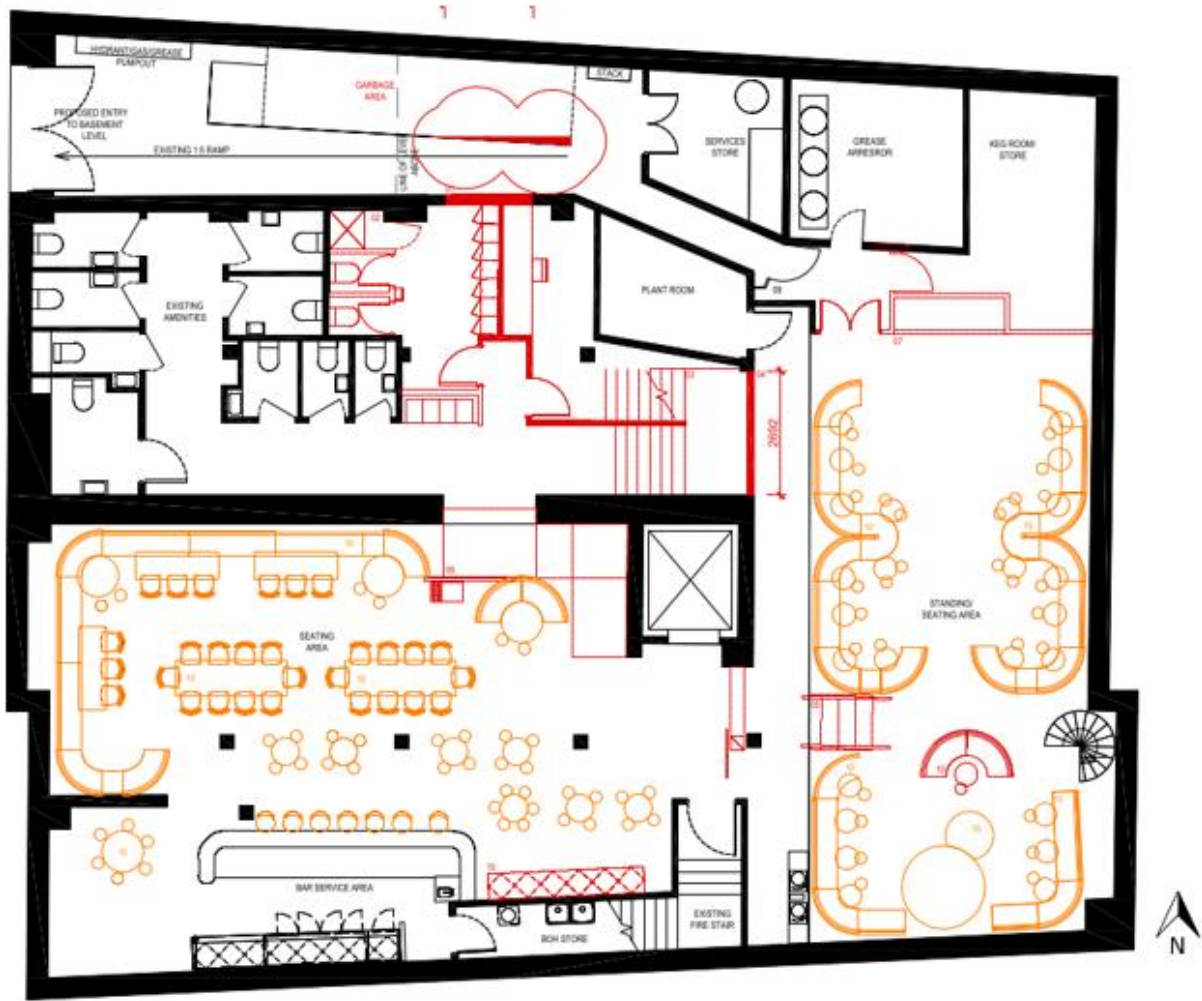


Figure 26: Proposed basement demolition plan

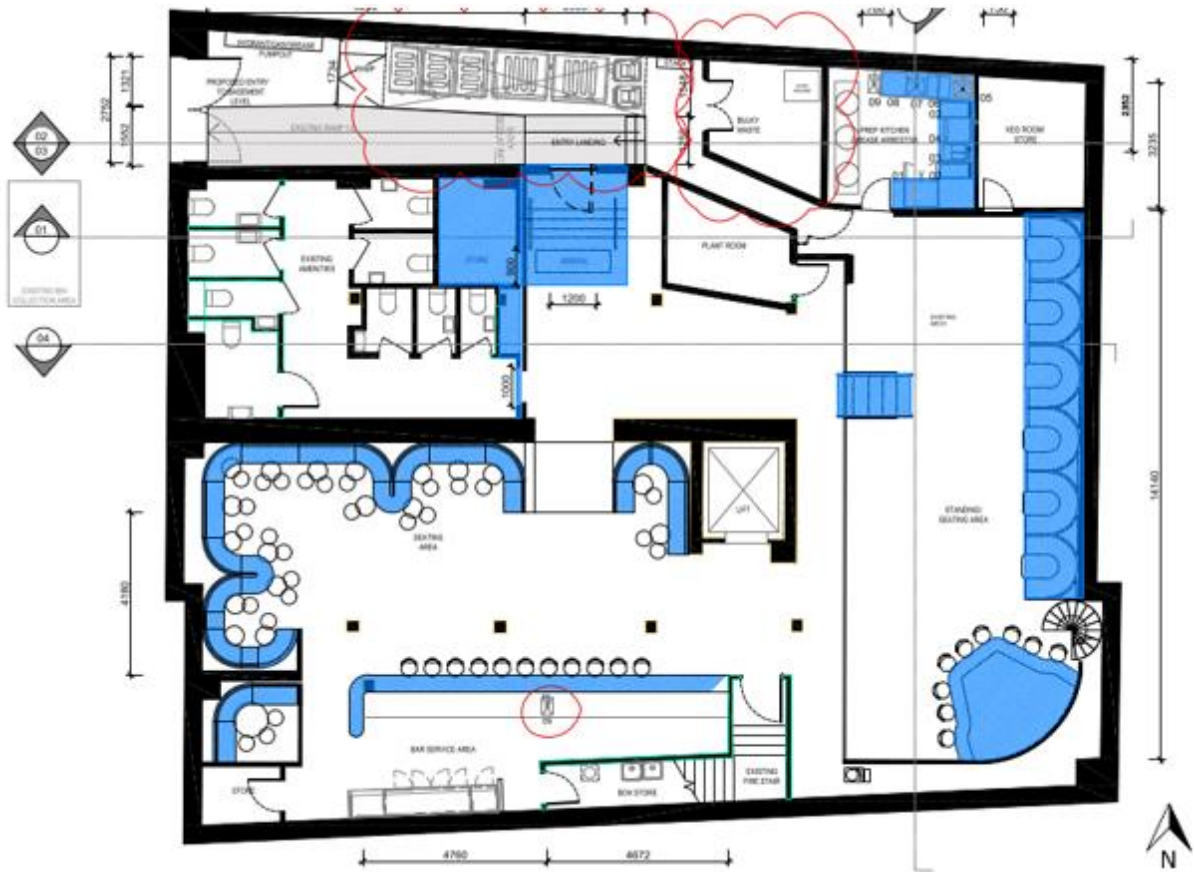


Figure 27: Proposed basement general arrangement plan

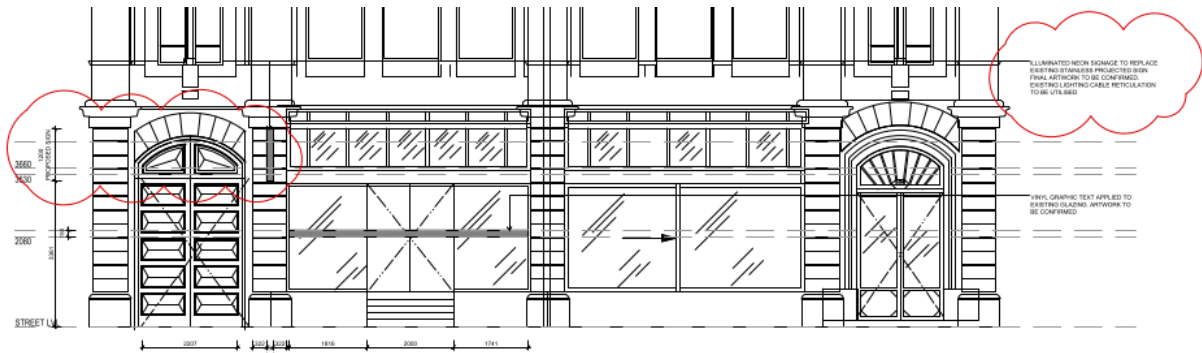


Figure 28: Proposed external elevation

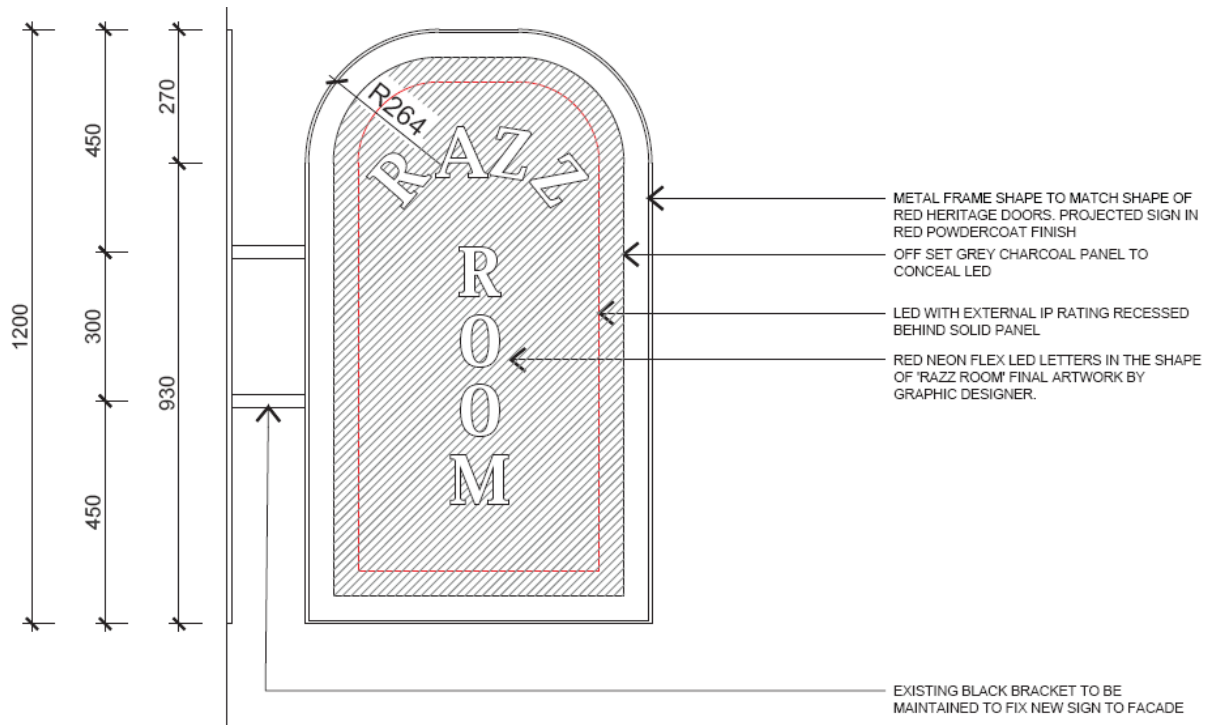


Figure 29: Proposed projecting wall sign elevation

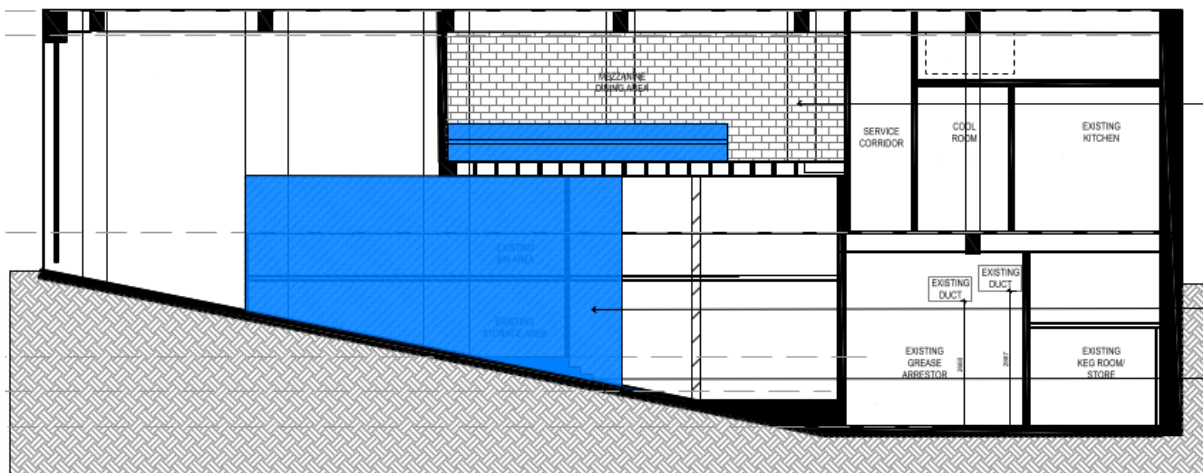


Figure 30: Proposed section of the cartway entry into basement live music venue

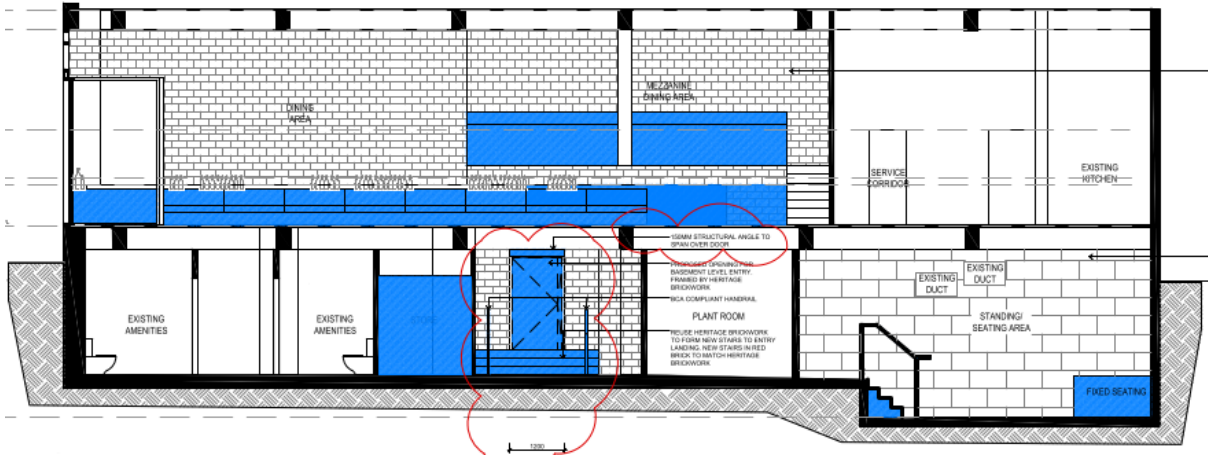


Figure 31: Proposed section facing north

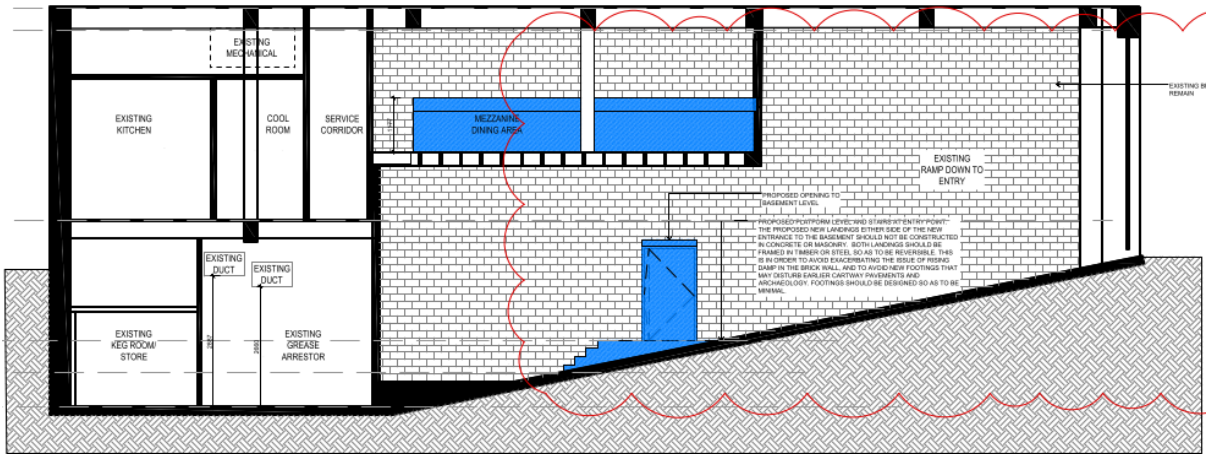


Figure 32: Proposed section facing south, illustrating entry down ramp into basement tenancy

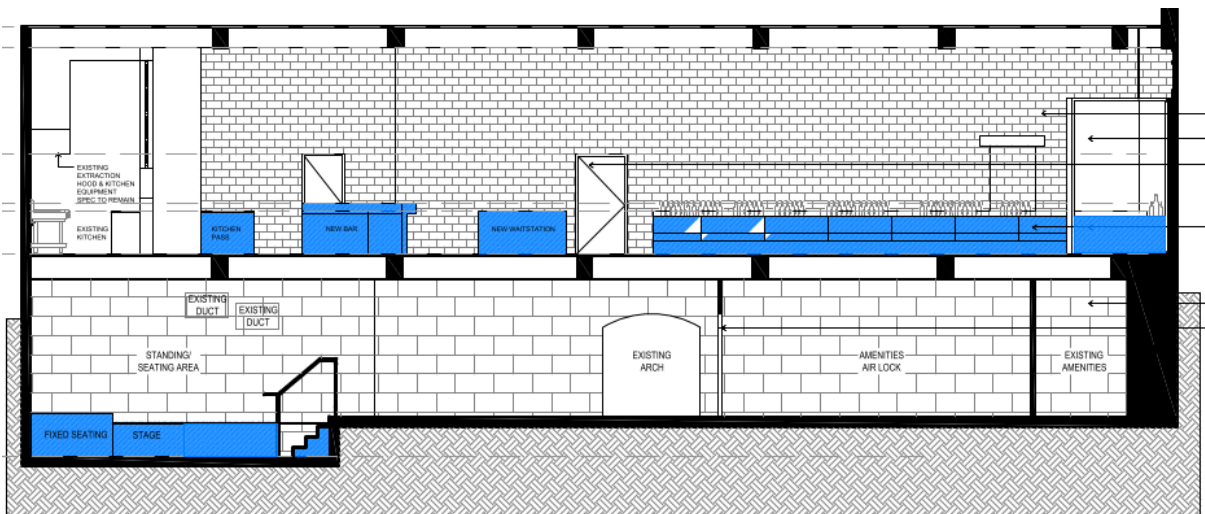


Figure 33: Proposed section facing south

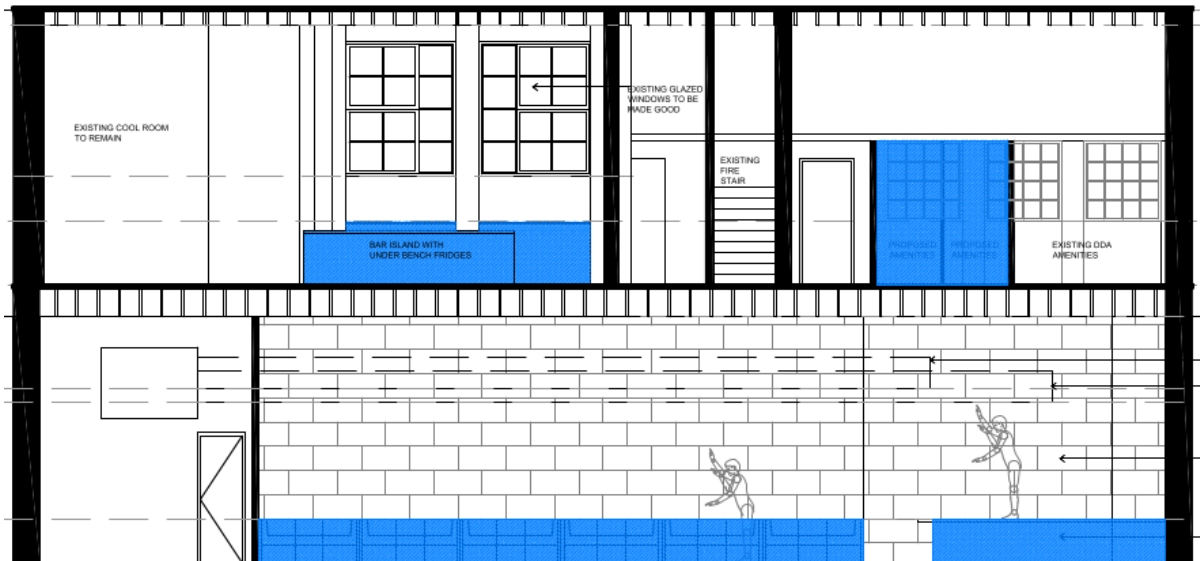


Figure 34: Proposed section facing east

Assessment

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

Heritage Act 1977

21. The subject site is not listed as a state heritage item and is therefore not subject to the Heritage Act.
22. There are two state heritage items which adjoin the subject site. International House (00579) is located directly to the north at 14-16 York Street and a former warehouse (00647) is located directly to the south at 22-26 York Street. The works proposed at the subject site are limited to the internal ground level and basement level, as well as signage contained to the York Street frontage of the site. There will be no direct impact upon the adjoining state heritage items, subject to conditions.

State Environmental Planning Policies

State Environmental Planning Policy (Industry and Employment) 2021 – Chapter 3 Advertising and Signage

23. The aim of SEPP (Industry and Employment) 2021 – Chapter 3 Advertising and Signage is to ensure that outdoor advertising is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high quality design and finish.
24. The proposed signage has been considered against the objectives of the policy and an assessment against the provisions within the assessment criteria set out in Schedule 1 is provided in the table below.

Provision	Compliance	Comment
1. Character of the area	Partial compliance	<p>The proposed signage is partially consistent with the character of the area. While projecting wall signs are commonplace on York Street, the proposed size and shape of the proposed projecting wall sign is inconsistent with other nearby approved signs. This sign is not supported in its current form. A design modification condition is recommended to allow the applicant to provide a modified projecting wall sign design prior to the issue of a Construction Certificate.</p> <p>The proposed vinyl graphic window signage is consistent with the character of the area, subject to conditions.</p>
2. Special areas	Yes	The proposed signage does not detract from the amenity or visual quality of the locality, subject to conditions.
3. Views and vistas	Yes	The proposed signage does not obscure or compromise any important views. It does not dominate the skyline and has no impact on the viewing rights of other advertisers.
4. Streetscape, setting or landscape	Partial compliance	Subject to the imposition of a design modification condition in relation to the design of the projecting wall sign, the proposed signage is sympathetic to the heritage significance of the building and the streetscape.
5. Site and building	Partial compliance	The scale and proportion of the proposed projecting wall sign is not acceptable as it is not consistent with the existing projecting wall signs on the site.
6. Associated devices and logos	N/A	Not applicable.
7. Illumination	Yes	The proposed illuminated projecting wall sign is capable of complying with the relevant Australian Standards.

Provision	Compliance	Comment
8. Safety	Yes	The proposed signage will not reduce the safety for pedestrians, cyclists or vehicles on public roads or areas.

25. Subject to the imposition of conditions, the proposed signage is consistent with the objectives of SEPP (Industry and Employment) 2021 – Chapter 3 Advertising and Signage as set out in Clause 3.1 and satisfies the assessment criteria specified in Schedule 5.

Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021 - Chapter 6 Water catchments

26. 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 control of improved water quality and quantity, the controls set out in Division 2 of the SEPP are not applicable to the proposed development.

Local Environmental Plans

Sydney Local Environmental Plan 2012

27. 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 SP5 Metropolitan Centre zone. The proposed development is defined as 'food and drink premises' 'entertainment facility' and 'business identification sign', all of which is permissible with consent in the zone.

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	Yes	The proposed works are limited to the ground and basement levels and therefore will have no impact on the existing height of the building. The maximum height of the new external signage is 4.6 metres above ground

Provision	Compliance	Comment
		level, and complies with the 60m building height development standard.
4.4 Floor space ratio 6.4 Accommodation floor space	Yes	<p>The proposal includes the removal of a staircase between the ground and basement levels of the site, which will result in an increase to the gross floor area of the site by approximately 12sqm.</p> <p>A base floor space ratio of 8:1 is permitted on the site. The site is located within Area 3 and under the accommodation floor space provisions of Clause 6.4, dependent on the land uses the site can utilise a further 2.5:1 to 3.5:1 of FSR. Inclusive of the additional floor space proposed under this application, the development on site is below the base FSR permitted.</p>

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	Yes, subject to conditions.	<p>The site is a local heritage item known as item I1974 - Former warehouse 'John Solomon Building' under Schedule 5 of the Sydney LEP 2012. The site is not located within a heritage conservation area.</p> <p>The site is adjacent to state heritage items to the north and south, and as discussed in the Heritage Act section of this report will have an acceptable impact on these items.</p> <p>The proposal is supported on heritage grounds, subject to the following conditions to minimise the impact to significant heritage fabric.</p> <ul style="list-style-type: none"> • Details of the proposed beam and the brick reveals, showing the new entry door opening between the ramp and basement reduced to 1200mm in width. • The proposed new landings either side of the new entrance to the basement must not be constructed

Provision	Compliance	Comment
		<p>in concrete or masonry. Both landings are to be framed in timber or steel so as to be reversible to avoid exacerbating issue of rising damp in the brick wall, and to avoid new footings that may disturb earlier cartway pavements and archaeology. Footings must be designed so as to be minimal.</p> <ul style="list-style-type: none"> • The proposed illuminated neon signage fixed to face of the original timber panelled transom above the cartway is not supported and is to be deleted from the plans. • The proposed projecting wall sign is not approved in its current form. A design modification condition will be included to allow a modified design to be submitted prior to the issue of a Construction Certificate. • The proposed wall tiling to be applied to the sandstone walls of the basement in the Kegg Room, in the Kitchen Preparation area, in the Bin Store and in the Bar area is not supported as it will exacerbate salt attack and rising damp. All tiling is to be applied to wall sheeting that is spaced off the sandstone walls to provide a cavity, by 100mm thick studwork. The cavity is be ventilated. <p>Subject to conditions, the proposed development will not have detrimental impact on the heritage significance of the heritage item.</p>

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 4 Design excellence		
6.21C Design excellence	Yes, subject to conditions	The proposed development is of a high standard and uses materials and detailing which are compatible with the existing development along the street

Provision	Compliance	Comment
		and will contribute positively to the character of the area.

Part 7 Local provisions - general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
7.7 Retail premises	Yes	The control mandates a maximum number of parking spaces. No parking currently exists on the subject site and no additional parking is proposed. Therefore, the proposal is in accordance with the control.
Division 3 Affordable housing		
7.13 Contribution for purpose of affordable housing	N/A	The proposal includes alterations to an existing building that will result in the creation of less than 60 square metres of gross floor area that is intended to be used for a purpose other than residential accommodation, and therefore the affordable housing contribution does not apply.

Development Control Plans

Sydney Development Control Plan 2012

28. 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

29. The site is located within the York Street, Clarence Street & Kent Street locality. The proposed development is generally in keeping with the unique character and the design principles of the locality.

Section 3 – General Provisions

Provision	Compliance	Comment
3.2 Defining the Public Domain	Yes	The subject site is identified in the Active Frontages map, meaning that at least

Provision	Compliance	Comment
		<p>70% of the ground floor frontage must be transparent glazing.</p> <p>The proposed window signage will maintain over 70% clear glazing and the proposed internal works at the ground floor will not obstruct views into and out of the premises, subject to conditions. The existing building façade will remain substantially unchanged as a result of the proposed development.</p>
3.9 Heritage	Yes	Refer to assessment of LEP section 5.10 and Heritage Act above. The proposal is acceptable from a heritage perspective, subject to conditions.
3.10 Significant Architectural Building Types	Yes, subject to conditions.	<p>The site is identified as a former warehouse building which is more than 50 years old and therefore this clause applies. The proposed alterations and additions are predominantly to non-significant or contemporary fabric and these works are acceptable from a heritage perspective. Regarding signage, refer to the Discussion section below</p> <p>The proposed internal works will have a generally acceptable impact on the internal heritage fabric of the building, subject to conditions. Significant fabric will be largely unaffected and retained, and the recommendations made by Council's Heritage specialist are discussed in further detail in the assessment of LEP section 5.10.</p>
3.11 Transport and Parking	Yes	The proposed uses will not result in any substantial increase to the previous approved premises capacity and therefore will have an acceptable impact on transport demand. Notwithstanding this, the site is well serviced by existing public transport options and is easily accessible on foot within Central Sydney.
3.12 Accessible Design	Yes, subject to conditions	<p>A BCA Report has been submitted by the applicant.</p> <p>The proposal is capable of complying with the relevant Australian Standards</p>

Provision	Compliance	Comment
		<p>relating to accessibility and will be required to comply prior to the issue of an Occupation Certificate. The site maintains a lift between the ground and basement levels, and DDA access is provided via the southern doors from York Street.</p> <p>A condition is recommended relating to fire safety and general access to the site to ensure that the both levels comply with the BCA through the relevant compliance pathways prior to the issue of any Construction Certificate.</p>
3.14 Waste	Yes, subject to conditions	<p>In order to facilitate the proposed change in access to the basement tenancy, further reconfiguration of the existing waste and bulky waste storage for the building is required. The location of the waste storage in the cartway has been reviewed by the City's Cleansing and Waste team and Environmental Health Officer.</p> <p>Conditions have been recommended to ensure the proposed development complies with the relevant provisions of the City's Guidelines for Waste Management in New Developments, as well as to ensure that the proposed modified waste storage area is constructed in accordance with Australian Standard AS 4674 relating to the design, construction and fit-out of food premises.</p> <p>Conditions are also recommended to ensure that the storage and collection of waste is conducted in a way to minimise odours, deter vermin and adequately ventilate the space in accordance with the Protection of the Environment Operations Act 1997.</p>
3.15 Late Night Trading Management	Yes	<p>The premises is located in a Late Night Management Area and the use is defined as a category A premises.</p> <p>The proposed trading hours are between 10.00am and 4.00am (the following day), Monday to Sunday, for both the ground level and basement level. The</p>

Provision	Compliance	Comment
		<p>proposed capacity is 111 persons for the ground level and 260 persons for the basement level for a total of 371 persons across both levels.</p> <p>The permitted base operating hours for category A premises in a Late Night Management Area are between 6.00am and 12 midnight, with extended hours permitted up to 24-hours per day on a trial period basis.</p> <p>In accordance with this section, the proposed hours between 10.00am and 12 midnight are supported on a permanent basis, with the hours between 12 midnight and 4.00am recommended to be supported subject to a trial period, beginning with a two-year trial period from the date of issue of an Occupation Certificate.</p> <p>A two year trial period is considered to be appropriate in this instance as the subject site has been approved as a late night trading premises for several years without noise or amenity complaints and no submissions were received during the public notification period. The site is also surrounded by a number of late night trading premises.</p>
3.16 Signs and Advertisements	Partial compliance	<p>The proposed development includes the provision of one projecting wall sign at the northern end of the site for business identification to replace the existing projecting wall sign, as well as one signage zone located at the clear glazing at the York Street entrance to the ground level of the subject site. This signage zone proposes to allow vinyl graphic signage.</p> <p>As discussed below, the projecting wall sign in its current form is not supported, while the window signage can be supported, subject to conditions.</p>

Provision	Compliance	Comment
3.16.4 Illuminated signage	Yes	The proposed illuminated projecting wall sign is capable of complying with the relevant Australian Standards.
3.16.6.4 Projecting wall signs	No	The proposed projecting wall sign is non-compliant with provisions (5) and (6) of this clause as the sign is larger than 0.5sqm in size and is not consistent in size or shape with other nearby projecting wall signs on the site and street. Refer to the Discussion section below.
3.16.6.8 Window signs and top hamper signs	Yes	The proposed window signage zone is a thin strip which horizontally spans the length of the contemporary shop front of the subject site. The zone is 150mm in height and is located in the centre of the glazing. The zone is compliant with this clause as it maintains views into and out of the subject site and occupies far below one third of the area of the shopfront. This shop front glazing is a contemporary addition and therefore the signage will not result in an unreasonable impact upon the heritage significance of the site, subject to conditions.
3.16.11 Signage related to heritage items and conservation areas	Partial compliance	<p>The proposed window signage is relatively minor and is in accordance with the relevant signage provisions. As it is located on the clear glazing, which is a contemporary addition, this signage will have an acceptable heritage impact, subject to conditions.</p> <p>Regarding the proposed projecting wall sign, refer to the Discussion section below.</p>
3.16.12.4 Wynyard signage precinct	Partial compliance	The proposed window signage is generally compliant with the objectives of this clause. However, provision (2) states that signage should be minimised to avoid visual clutter. Given that the

Provision	Compliance	Comment
		proposed projecting wall sign does not demonstrate compliance with the relevant provisions above, it is not considered to be appropriate in its current form.

Section 5 – Specific Areas

Provision	Compliance	Comment
5.1 Central Sydney	Yes	The proposed uses are consistent with the objectives for Central Sydney as they promote the City's nighttime economy and will activate a recently disused space should the development be carried out. The proposed works generally are supported as they will enable the proposed uses while appropriately protecting the heritage significance of the site, subject to conditions.

Discussion

Operation of basement and ground level premises

30. The proposal is accompanied by a Statement of Environmental Effects and Plan of Management. These documents state that the primary use of the ground floor is as a restaurant while the primary use for the basement level is as a live music venue. The operator will propose an on-premises liquor license (Restaurant and Live Music Venue) in accordance with these primary uses. It is noted that both levels will operate under one Plan of Management and liquor license.
31. Access between the ground and basement levels will be provided via a lift located in the centre of the building, with separate access points also available for each level. Direct access to the ground level is provided via the existing glass doors to York Street which act as the primary entry to the site, as well as the accessible entrance near the southern-most doors to the site. Direct access to the basement level will be provided via the northern-most doors on the site.

Noise

32. The proposal is accompanied by an Acoustic Report by Acoustic Dynamics and dated 15 May 2024.
33. The site is surrounded by a number of other late night trading venues, though the acoustic report identifies that the nearest sensitive receivers are the office premises located on Levels 1 to 3 of the subject building and the Carrington Motel Apartments at 57 York Street, located approximately 80 metres from the site.

34. The acoustic modelling has been based on the proposed hours of operation until 4.00am, a maximum capacity in both tenancies and the assumption of ambient background music playing in the ground level restaurant and the live music venue in the basement.
35. The following conclusions have been made:
- (a) The doors to the live music venue are to be closed at all times, except when patrons are arriving/exiting the premises. All operable windows and doors on both levels closed after 10.00pm;
 - (b) Adoption and adherence to the plan of management for the premises, including staff training, community liaisons and management practices to carry out noisy activities (i.e. garbage disposal and emptying glass containers during the daytime operation hours);
 - (c) The removal of the existing stair between the ground and basement level will assist in noise attenuation and minimise disturbance to upper levels of the subject building;
 - (d) Noise transmission, particularly from the basement live music venue, can be reasonably managed with noise limiters being installed and scheduling peak musical entertainment outside of the standard business hours when the office premises above and in neighbouring buildings is more likely to be utilised by other tenants. Report recommends no live music until after 6.00pm with only ambient background noise between 10.00am and 6.00pm;
 - (e) Speakers are to be isolated from the building structure, and oriented away from sensitive receivers;
 - (f) Performers advised that they need to adhere to noise limits.
36. The conclusions of the acoustic assessment are that subject to the above recommendations, that the premises is able to operate within the City's acoustic criteria. The Report has been peer reviewed by Council's Environmental Health Unit. Upon review, the City's relevant acoustic criteria, as well as the relevant criteria detailed in the Protection of the Environment Operations Act 1997 have been addressed and the proposal is capable of complying with the criteria subject to conditions of consent. A condition is recommended to ensure that the premises operate in accordance with the approved Acoustic Report.

Projecting wall signage

37. The proposal initially included a top hamper sign to the transom of the northern-most doors at the site, as well as window signage located at the contemporary shop front glazing. The top hamper sign was not supported due to the impact upon significant heritage fabric. After the top hamper sign was removed via amended architectural plans, a projecting wall sign is now proposed to provide business identification to the basement live music venue.
38. This projecting wall sign (as shown in Figure 29) is oversized and of an inconsistent shape when considering other nearby projecting wall signs on the site and on York Street. The sign would detract from the heritage significance of the site by drawing away attention from the unique architectural elements of the building façade.

39. A condition is recommended to allow the applicant to submit a modified sign design to comply with the DCP and compliment the heritage significance of the site. Alternatively, the applicant may utilise and change the content of an existing projecting wall sign located near the northern-most doors on the site, in accordance with the relevant approval for this sign. It is noted that the contents of an existing sign may be replaced as exempt development under section 2.96 of the Exempt Development Codes 2008.

Consultation

Internal Referrals

40. The application was discussed with Council's;
- (a) Building Services Unit;
 - (b) Environmental Health Unit;
 - (c) Licenced Premises Unit;
 - (d) Heritage and Urban Design Unit; and
 - (e) Waste Management Unit.
41. The above advised that the amended proposal is acceptable, subject to conditions. Where appropriate, these conditions are included in the Notice of Determination.

Advertising and Notification

42. In accordance with the City of Sydney Community Participation Plan 2023, the proposed development was notified for a period of 21 days between 4 July 2024 and 25 July 2024. A total of 161 properties were notified and no submissions were received.

Financial Contributions

Levy under Section 7.12 of the Environmental Planning and Assessment Regulation 2021

43. The Central Sydney Development Contributions Plan 2020 applies to the site. The cost of the development is over \$250,000. The development is therefore subject to a s7.12 contribution under this Plan. A condition relating to this contribution has been included in the recommended conditions. The condition requires the contribution to be paid prior to the issue of a construction certificate.

Housing and Productivity Contribution

44. The development is subject to a Housing and Productivity Contribution (Base component) under the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023.

45. The site is located with the Greater Sydney region, the development is a type of commercial development to which the Housing and Productivity Contribution applies, and the development is not of a type that is exempt from paying a contribution.
46. A condition relating to the Housing and Productivity Contribution has been included in the recommended conditions of consent.

Relevant Legislation

47. Environmental Planning and Assessment Act 1979.
48. Heritage Act 1977.

Conclusion

49. The proposed development, subject to recommended conditions, is consistent with the objectives of the SP5 Metropolitan Centre zone.
50. The development is located within the Late Night Management area. The recommended hours of operation are consistent with the planning controls, subject to any extended hours after 12 midnight being on a trial period and the imposition of management and operational controls to protect nearby amenity. The development, subject to the recommended conditions is able to operate without unreasonable disturbance or nuisance to surrounding properties.
51. The site is identified as a local heritage item. Subject to conditions, the proposed development will have an acceptable impact upon the heritage significance of the site.
52. The proposed development has been assessed as being consistent with the applicable planning controls and is supported subject to the imposition of conditions in Attachment A.

ANDREW THOMAS

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Callum Byrnes-Krickl - Planner