

Item 6.**Development Application: 35, 300 and 400 Barangaroo Avenue, Barangaroo - D/2024/847**

File No.: D/2024/847

Summary**Date of Submission:** 2 October 2024**Additional Information:** 19 November 2024**Applicant:** Ms Monika Cala**Planning Consultant:** Design Collaborative**Cost of Works:** Nil**Zoning:** B4 Mixed Use under State Environmental Planning Policy (Precincts - Eastern Harbour City) 2021

Proposal Summary: The proposed development application seeks consent for the change of use of the level 4 rooftop of the building known as 400 Barangaroo Avenue, Barangaroo from a restaurant (with an on-premises licence) to a pub (with a hotel 'general bar' licence). The proposed hours of operation are between 10.00am and 12.00am midnight, Monday to Sunday, for both the indoor and outdoor areas. The premises has a capacity of 270 persons. The proposed hours and capacity are consistent with the existing restaurant approval for the premises.

The application is reported to the Local Planning Panel for determination as it is a nominated sensitive development type being a pub seeking to operate under a Hotel (general bar) liquor license under the Liquor Act 2007.

The application was notified for a period of 21 days between 9 October and 30 October 2024. A total of 872 properties were notified and no submissions were received.

During the assessment of the application, the applicant was requested to modify the acoustic report provided to address the requirements of the Barangaroo South Master Plan Noise Assessment, and demonstrate the proposed use can comply with it's requirements. An amended

acoustic report was provided on 19 November 2024 which addressed these matters.

The Barangaroo Precinct is an excluded area from the Sydney Development Control Plan 2012, and instead for the purposes of assessment of late night trading, the applicable control is the City of Sydney Late Night Trading Premises DCP 2007. Under this DCP, the proposed use is defined as a Category A premises and is located within a designated City Living Area. The Late Night Trading Premises DCP 2007 then adopts the provisions of Section 3.15 of the Sydney Development Control Plan 2012 in relation to late night trading management.

The late night trading provisions for a Category A premises recommend indoor base hours between 7.00am and 11.00pm, and supported extended trading until 5.00am (the following day) on a trial basis. For outdoor areas of the premises, the DCP recommends base hours of 10.00am to 8.00pm, and extended trading until 12 midnight on a trial basis.

The existing premises currently operates the hours of 10.00am to 12 midnight for both its indoor and outdoor areas, with the indoor hours approved to 12 midnight on a permanent basis and outdoor trading between 8.00pm and 12 midnight approved on a trial period basis, expiring on 30 March 2025.

The application is seeking to replicate the existing approved hours. The application has been accompanied by an acoustic report and plan of management to demonstrate the change from restaurant to a pub with the same patron capacity can operate within the acoustic criteria established for the Barangaroo precinct with no adverse impact to any nearby sensitive receivers.

It is recommended the indoor hours of operation between 10.00am and 12 midnight, Monday to Sunday, be approved on a permanent basis. The outdoor hours of operation between 10.00am and 8.00pm, Monday to Sunday, are recommended for approval on a permanent basis, with the hours between 8.00pm to 12 midnight recommended for a two-year trial period.

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) SEPP (Biodiversity and Conservation) 2021
- (iv) SEPP (Precincts – Eastern Harbour City) 2021
- (v) SEPP (Planning Systems) 2021
- (vi) City of Sydney Late Night Trading Premises Development Control Plan 2007
- (vii) City of Sydney Development Control Plan 2012
- (viii) Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005

Attachments:

- A. Recommended Conditions of Consent
- B. Existing Floorplan
- C. Plan of Management

Recommendation

It is resolved that consent be granted to Development Application Number D/2024/847 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 B4 Mixed Use zone of the State Environmental Planning Policy (Precincts - Eastern Harbour City) 2021.
- (B) The proposal generally satisfies the objectives and provisions of Appendix 5 of the State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021, subject to conditions.
- (C) The proposal is consistent with the relevant objectives and provisions of the Sydney Development Control Plan 2012, City of Sydney Late Night Trading Premises Development Control Plan 2007, and other applicable Development Control Plans, subject to conditions.
- (D) Subject to the recommended conditions of consent, the proposed development will have an acceptable impact on the amenity of 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 subject site contains several overlapping lots which are described as follows.
 - 400 Barangaroo Avenue, Barangaroo which has a legal description of Lot 302 DP 1244221 and is irregular in shape with an approximate size of 1,031sqm. The boundary of this lot most accurately reflects the subject site, being level 4 of the subject building at the corner of Barangaroo Avenue and Exchange Place. This lot also includes underground parking access to the north at Watermans Quay.
 - 35 Barangaroo Avenue, Barangaroo which has a legal description of Lot 301 DP 1244221 and is irregular in shape with an approximate size of 1,760sqm. This lot covers approximately half of the subject site, and the building located across Barangaroo Avenue to the west.
 - 300 Barangaroo Avenue, Barangaroo which has a legal description of Lot 211 DP 1217691 and is irregular in shape with an approximate size of 10,132sqm. This lot covers most of the subject site and extends to include International Tower 3 and Barangaroo Avenue until the intersection of Mercantile Walk.
2. The site contains a 4-storey commercial building, with the subject premises being at the rooftop level which is accessed via the staircase fronting Exchange Place to the north or via the internal lifts which can be accessed via Barangaroo Avenue to the west.
3. The subject premises is approved for and currently operates as a restaurant with an on-premises licence and has a primary service authorisation that permits patrons to order an alcoholic beverage without a meal. Refer to the History section below.
4. The site has a street frontage to the west at Barangaroo Avenue, with additional frontages to Exchange Place facing north and east which act as the primary access points for the site.
5. The surrounding area is characterised by a mixture of land uses, primarily being high density commercial and residential. International Tower 3 is located across Exchange Place to the north and northeast of the subject site which includes predominantly office premises. A three storey commercial building is located across Barangaroo Avenue to the west of the subject site, which includes late trading food and drink premises. A multi-storey commercial building is located across Shelley Street to the south which includes predominantly office premises with ground floor food and drink premises.
6. 23 Barangaroo Avenue to the northwest is a mixed use development which maintains ground floor food and drink premises with residential dwellings on the above levels. This building is the nearest sensitive noise receiver, with the closest residential dwelling being approximately 30 metres from the northwest outdoor terrace of the subject site.
7. The site is not identified as a heritage item, is not located within a heritage conservation area and is not subject to flooding.
8. A site visit was carried out on 22 October 2024. Photos of the site and surrounds are provided below.

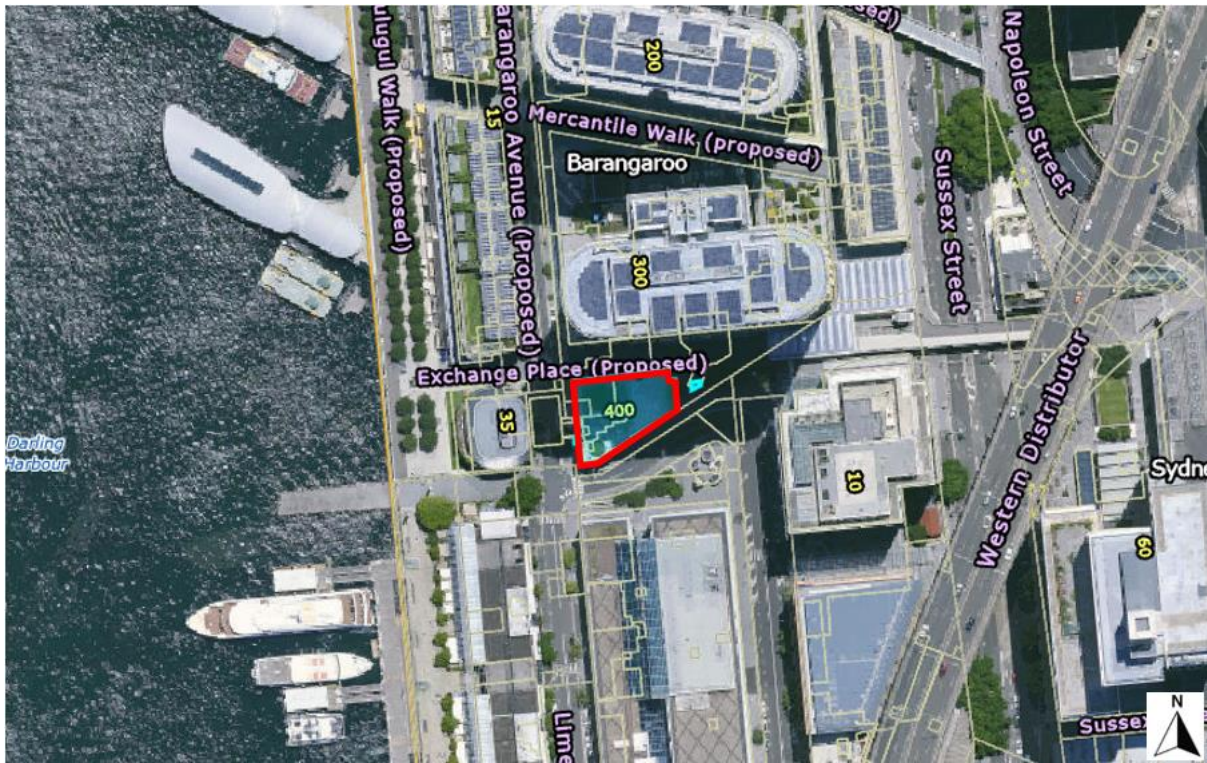


Figure 1: Aerial view of site and surrounds - subject site outlined in red

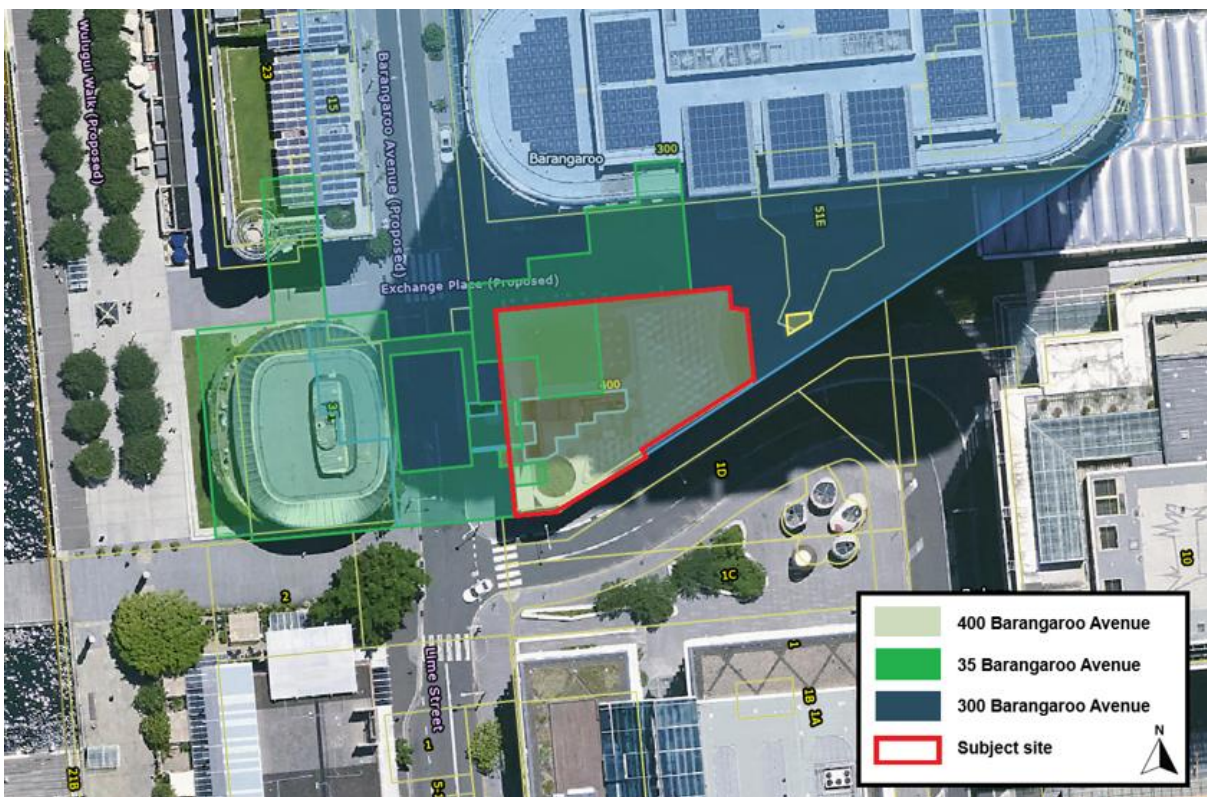


Figure 2: Detail aerial view of site and surrounds



Figure 3: Site viewed from Exchange Place facing southwest



Figure 4: Site viewed from Barangaroo Avenue facing east



Figure 5: Outdoor area including lift and stair access facing west



Figure 6: Indoor area including bar facing north



Figure 7: Indoor area facing south

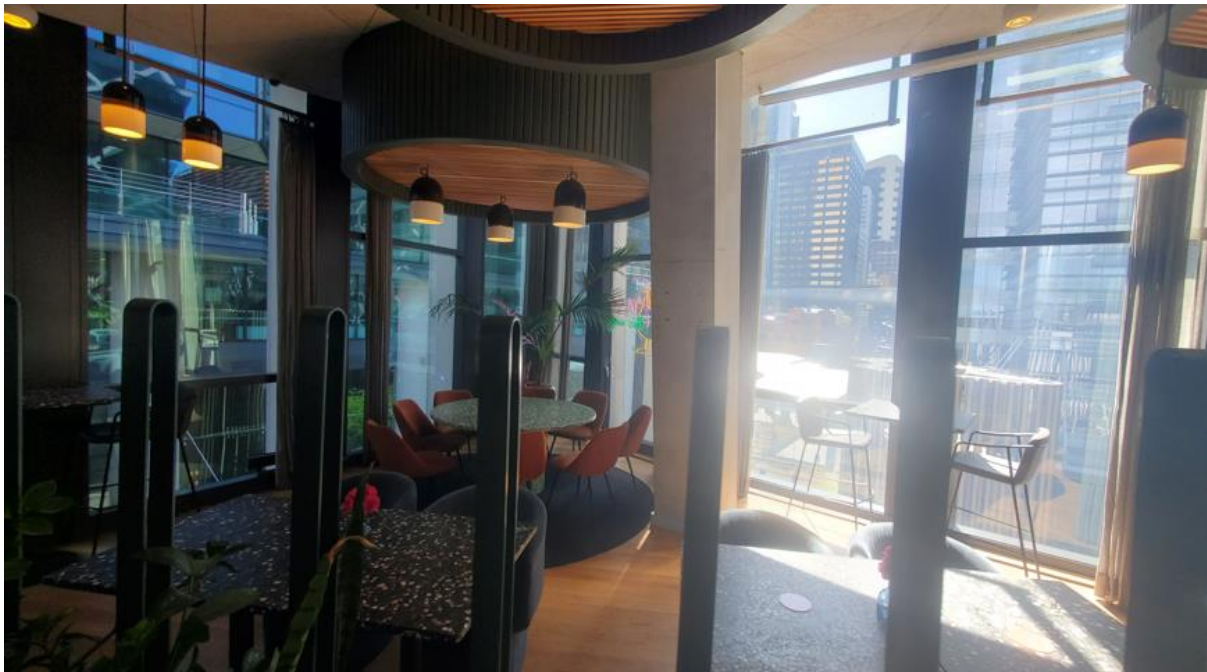


Figure 8: Indoor area facing northeast



Figure 9: Indoor area including bar facing east

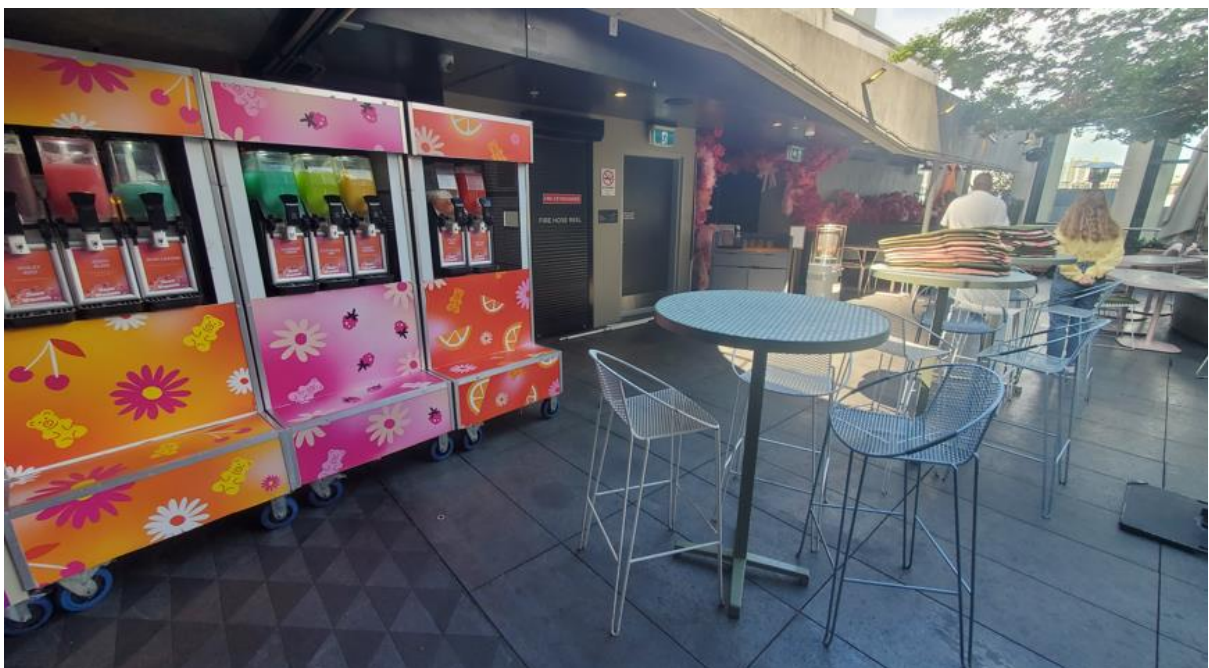


Figure 10: Outdoor area on level 4 facing southwest



Figure 11: Outdoor area on level 4 facing west



Figure 12: Outdoor area on level 4 facing west



Figure 13: Outdoor area on level 4 facing northwest



Figure 14: Outdoor area on level 4 facing northeast



Figure 15: Outdoor area on level 4 facing east



Figure 16: Part of existing kitchen



Figure 17: Existing storeroom

History Relevant to the Development Application

Development Applications

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

- **SSD-6623** – State Significant Development consent was granted on 11 August 2015 for the construction of Building R7. This is the building to which the subject application relates.
- **D/2016/1025** – Development consent was granted on 12 October 2016 for fitout and use of the rooftop/level 4 of 'Building R7' as a licensed restaurant. Approved indoor operating hours were between 11.00am and 12.00 midnight, Monday to Sunday, with operating hours until 2.00am permitted for a one-year trial period. Approved outdoor operating hours were between 11.00am and 8.00pm, Monday to Sunday, with operating hours until 12.00am midnight permitted for a one-year trial period. The approved premises capacity is 270 persons.
- **D/2016/1025/B** – Development consent was granted on 9 April 2018 for renewal of extended operating for the indoor and outdoor areas for a further two years, lapsing on 9 April 2020.
- **D/2016/1025/C** – Development consent was granted on 30 March 2020 for renewal of extended operating hours for the indoor and outdoor areas for a further five years, lapsing on 30 March 2025.

Compliance Action

10. During a routine inspection by Council's Licensed Premises Unit, the operator received a warning about management of the capacity of the indoor and outdoor areas, as well as the operation of speakers in the outdoor areas. It was also found that the initial trial period imposed for the outdoor areas had not been renewed.
11. As discussed in further detail in the sections below, the premises does not have a history of substantiated complaints and has otherwise demonstrated good management.

Amendments

12. Following a preliminary assessment of the proposed development, a request for additional information was sent to the applicant on 5 November 2024. It was requested that the Acoustic Report provided with the application be amended to address the current acoustic criteria as set out in the 2024 Barangaroo South Master Plan.
13. The applicant responded to the request and provided the required additional information on 19 November 2024.

Proposed Development

14. The application seeks consent for change of use of the subject premises at level 4, 400 Barangaroo Avenue, Barangaroo from a restaurant (with an on-premises licence) to a pub with a hotel 'general bar' licence under the Liquor Act 2007, including:
 - A total capacity of 270 persons across indoor and outdoor areas to be consistent with the existing approved capacity.
 - A change of land use classification and liquor licence to a pub with a hotel 'general bar' licence would remove current restrictions on the approved use in relation to the primary purpose being for food service and the requirement that all patrons are seated;
 - Indoor hours of operation between 10.00am and 12.00am midnight, Monday to Sunday; and
 - Outdoor hours of operation between 10.00am and 8.00pm, Monday to Sunday, with extended hours until 12.00am midnight sought for a five-year trial period.
 - No building works or change of fit-out of the premises is proposed as part of this development application.
15. Plans of the proposed development are provided below.

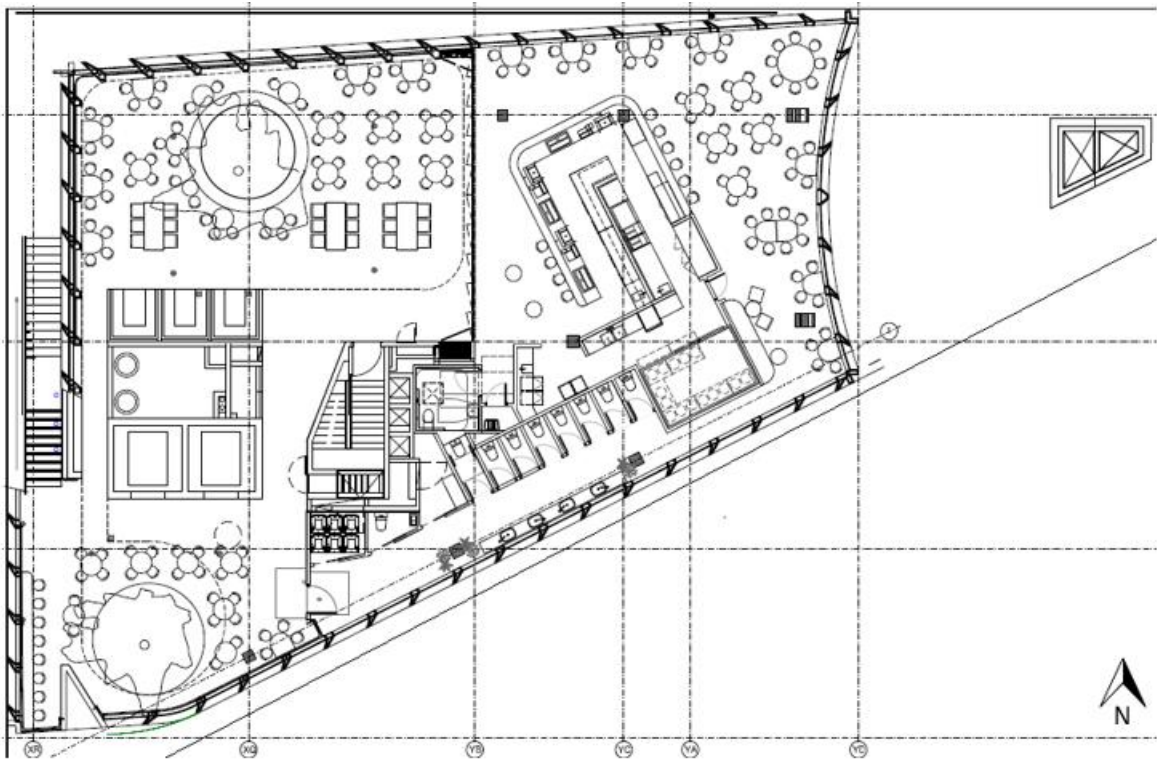


Figure 18: Existing level 4 (rooftop) floorplan

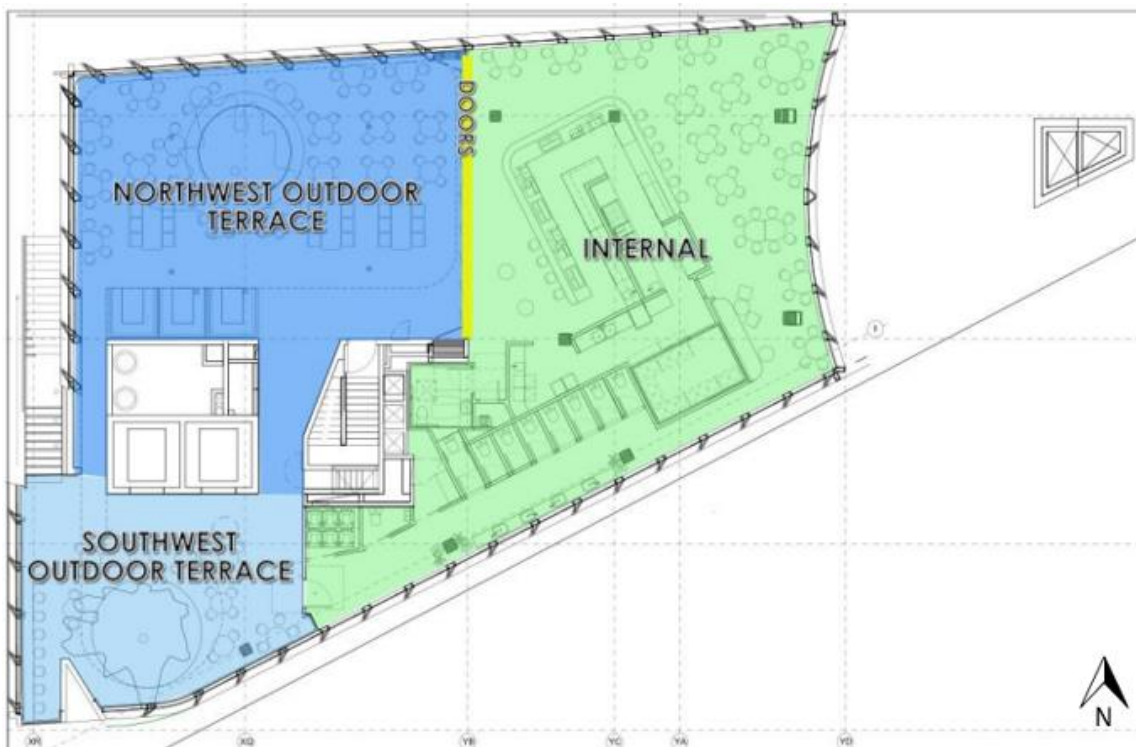


Figure 19: Existing premises layout plan

Assessment

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

State Environmental Planning Policies

State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021 – Appendix 5 State significant precinct - Barangaroo site

17. The site is subject to the provisions of Appendix 5 of the above SEPP.
18. The subject site is located within the B4 Mixed Use zone. The objectives of the B4 zone are as follows.
- (a) to provide a mixture of compatible land uses,
 - (b) to integrate suitable development in accessible locations so as to maximise public transport patronage and encourage walking and cycling,
 - (c) to encourage a diverse and compatible range of activities through various means, including the following—
 - (i) commercial and retail development,
 - (ii) cultural and entertainment facilities,
 - (iii) tourism, leisure, and recreation facilities,
 - (iv) social, education and health services,
 - (v) higher density residential development,
 - (d) to incorporate contemporary urban design principles in the design of new buildings and the interpretation of their relationship with the public domain,
 - (e) to implement the principles of energy efficiency, travel demand management and other sustainable development practices as part of the development assessment process,
 - (f) to facilitate the conservation of heritage items,
 - (g) to ensure that the nuisance generated by non-residential development, such as that related to operating hours, noise, loss of privacy, vehicular and pedestrian traffic, or other factors, is controlled so as to preserve the quality of life for residents in the area.
19. The proposed change of use to a pub is a form of commercial premises. This use will enable the subject premises to operate without the requirement to serve food and have patrons seated. The proposed patron capacity will remain unchanged and appropriate conditions of consent will be imposed to ensure the preservation of amenity for any nearby sensitive noise receivers.
20. Except as otherwise provided by Chapter 2, development for any purpose may be carried out with consent on land within the B4 Mixed Use zone, unless prohibited by subsection 3. The proposed pub use is not prohibited by subsection 3 nor Chapter 2.

21. Therefore, the proposed use is in accordance with the objectives of the zone and is permitted with consent, subject to conditions.

State Environmental Planning Policy (Planning Systems) 2021

22. The subject site is located within Barangaroo, which is a State significant development identified site. Under the provisions of Section 2.6 and Schedule 2 of SEPP (Planning Systems) 2021, as the subject development application has an estimated development cost of less than \$10 million, it is not State significant development and Council (or in this instance the Local Planning Panel) is the consent authority.

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

23. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of Chapter 6 of the above SEPP.
24. In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the controls set out in Division 2. An assessment of the relevant provisions is shown below.

| Provision | Compliance | Comment |
|----------------------------------|------------|--|
| 6.6 Water quality and quantity | Yes | The proposal will not affect the quality of water entering the natural waterbody. |
| 6.9 Recreation and public access | Yes | The proposal will maintain public access to the harbour and will have a neutral impact on public access to the Foreshore Area. |
| 6.10 Total catchment management | Yes | The proposal will maintain public access to the harbour and will have a neutral impact on public access to the Foreshore Area. |

25. The site is also located within in the Foreshores Waterways Area. As such, the consent authority must consider the provisions of Division 3 of Part 6.3 of the SEPP.
26. The proposal, being a change of use which does not involve any physical works, satisfies the considerations of Part 6.3 which relate to the physical impact upon the Foreshores and Waterways Area.

Local Environmental Plans

Sydney Local Environmental Plan 2012

27. The site is located outside the Land Application area and therefore the proposal is not subject to the provisions of the Sydney LEP 2012.
28. The site is located within the Barangaroo State Significant Precinct. Refer to the above section of this report relating to the State Environmental Planning Policy (Precincts—Eastern Harbour City) 2021.

Development Control Plans

Sydney Harbour Foreshores and Waterways Area DCP 2005

29. Section 5 of this DCP sets out the design guidelines for land-based developments. The guidelines relate predominantly to foreshore access, the siting of buildings and structures, the design of the built form, and signage.
30. As the proposal does not involve any physical works to the subject site and no increase to the existing patron capacity is proposed, it will not result in any adverse impacts upon the foreshores and waterways area.
31. Therefore, the proposed change of use from a restaurant to a pub use is consistent with the design guidelines for land-based developments.

City of Sydney Late Night Trading DCP 2007 and Sydney Development Control Plan 2012

32. The Barangaroo Precinct is an excluded area from the Sydney Development Control Plan 2012, and instead for the purposes of assessment of late night trading, the applicable control is the City of Sydney Late Night Trading Premises DCP 2007. Under this DCP, the proposed use is defined as a Category A premises and is located within a designated City Living Area.
33. The Late Night Trading Premises DCP 2007 then adopts the provisions of Section 3.15 of the Sydney Development Control Plan 2012 in relation to late night trading management. Refer to the discussion section of this report for assessment on late night trading, management, and noise. As Barangaroo is an excluded area under the SDCP 2012, the compliance of the operation of the premises is assessed below under the relevant planning instruments being the Central Sydney Development Control Plan 1996 and City of Sydney Access DCP 2004 which still apply to this site.
34. The Central Sydney DCP 1996 does not contain specific provisions in relation to waste management, and as such, consideration of the use of the premise in relation to waste management, storage and collection is addressed here. Currently, waste generated from the operation of the premises is managed as part of the centralised waste management facilities at Barangaroo. Deliveries and waste collection occurs in the basement of the building. In accordance with Council's guidelines for waste management in new developments, the proposed change of use (which does not alter capacity or the general operation in relation to waste produced) should not result in an increase to the waste generation rates for the premises.

35. Conditions are recommended to ensure the proposed use complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development and Barangaroo South Operational Waste Management Plan.

Central Sydney Development Control Plan 1996

36. The Barangaroo Precinct is located within the land application area for this DCP. Therefore, the relevant provisions apply to the proposal and are assessed below.

| Provision | Compliance | Comment |
|---|------------|---|
| 5.1 Design and location of on-site parking | Yes | The proposed change of use does not involve an increase to the existing capacity of the premises on level 4. Therefore, the proposal will not result in an increased demand for public transport or parking. No physical works are proposed to the existing building on the site. |
| 9.1 Provisions for amusement arcades, brothels, restricted premises, late opening pubs and the like | Yes | <p>For the purpose of this clause, a 'late opening pub' is considered to be premises that proposes to operate after 12 midnight, Monday to Saturday and 11.00pm Sunday. As the proposal proposes to operate between 11.00pm and 12.00am midnight on Sundays, this section applies.</p> <p>In accordance with sub-section 9.1.2, the appropriate information has been submitted with the application and the location of the use will have an acceptable impact on the surrounding area, subject to conditions. This is discussed in further detail below.</p> |

City of Sydney Access Development Control Plan 2004

37. The Barangaroo Precinct is located within the land application area for this DCP.
38. The existing site, including the subject premises at level 4, has a lift which is accessible via Barangaroo Avenue. No alterations are proposed to the lift or existing premises capacity. The existing accessibility provisions on the site are compliant with the Disability Discrimination Act 1995. Therefore, the proposal is in accordance with the relevant Australian Standards relating to accessibility.

Discussion

Late Night Trading, Management of Premises and Noise

39. Under the Late Night Trading DCP 2007, the premises is located in a City Living Area. The use is defined as a category A premises. The permitted operating hours for such premises are as follows.
- Indoor:
 - Base - 7.00am to 11.00pm; and
 - Extended - 7.00am to 5.00am (the following day).
 - Outdoor:
 - Base - 10.00am to 8.00pm; and
 - Extended - 9.00am to 12 midnight.
40. As detailed in the history section of this report above, the premises has been operating as a licensed restaurant with primary service authorisation (which allows the service of alcohol without food) since the approval of development consent D/2016/1025, which includes conditions relating to the management of both its indoor and outdoor areas.
41. The table below compares the proposed hours of operation to the currently approved operating hours under consent D/2016/1025/C. The intention of the proposed amendments is to reflect the desired use of the premises and to simplify the management of the premises in relation to designated seating and capped capacity in certain areas of the premises. .

| Area | Existing approval | Proposed |
|------------------------|--|---|
| Indoor | 11.00am to 12 midnight, Monday to Sunday Trial period: 12 midnight to 2.00am, Monday to Sunday | 10.00am and 12 midnight, Monday to Sunday |
| Northwest outdoor area | 11.00am to 8.00pm, Monday to Sunday Trial period: 8.00pm to 10.00pm, Monday to Sunday, and until 12 midnight on 31 December | 10.00am to 12 midnight for a five-year trial period Permanent base hours between 10.00am and 8.00pm. |
| Southwest outdoor area | 11.00am to 8.00pm, Monday to Sunday Trial period: 8.00pm to 11.00pm, Monday to Sunday, and until 12 midnight on 31 December | Extended hours between 8.00pm and 12midnight subject to a trial period. |

42. The proposal is accompanied by an Acoustic Report, prepared by Renzo Tonin and Associates, dated 15 November 2024. The report identifies that the subject site is located in the vicinity of other late night trading venues and identifies the nearest sensitive noise receiver as the mixed use development to the northwest at 33 Barangaroo Avenue. This building includes several levels of residential apartments above food and drink premises located at ground level. The nearest dwellings to the subject site are approximately 30 metres away.
43. The report includes acoustic modelling based on the proposed hours of operation until 12 midnight for both the indoor and outdoor areas with a patron capacity of 270 persons.
44. Based on this modelling and consideration of the required acoustic criteria for Barangaroo, the acoustic report has made the following recommendations and conclusions:
 - (a) The outdoor areas can be used until 12 midnight while maintaining compliance with the relevant acoustic conditions.
 - (b) The capacity of the northwest outdoor area should not exceed 200 persons and the southwest outdoor area should not exceed 40 persons.
 - (c) Music to be provided via house PA system that incorporates a noise limiter and there is to be no music in the outdoor areas that does not use the house PA system.
 - (d) Any speaker located in an external area must be located below the level of the bounding screens and directed/angled down and back towards the outdoor area.
 - (e) In the event that the internal noise level from music exceeds the limits detailed in the Report, all doors from the internal area onto the northwest outdoor area are to be closed other than one door for ingress/egress.
45. The Acoustic Report and proposal as detailed in the Statement of Environmental Effects has been reviewed by Council's Environmental Health Unit. Upon review, the City's 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.
46. The proposal has also been accompanied by a Plan of Management, prepared by Design Collaborative, dated September 2024. The Plan of Management reflects the Statement of Environmental Effects and includes operating hours between 10.00am and 12 midnight, Monday to Sunday, for the indoor and outdoor areas with a total premises capacity of 270 persons, including patrons and staff. Notwithstanding this, it is proposed that between 10.00pm and 12 midnight, the northwest outdoor area will have a maximum capacity of 200 patrons and southwest outdoor area a capacity of 40 patrons. This reflects the recommendations set out in the Acoustic Report discussed above.

47. Based on a consideration of the above, the following is concluded and recommended:
- (a) The proposed indoor operating hours between 10.00am and 11.00pm are consistent with the DCP provisions. In this instance, considering that the premises has an existing permanent consent to operate its indoor areas until 12 midnight, and that there is not a history of substantiated complaints, it is recommended that the hours of 10.00am to 12 midnight be supported on a permanent basis for the indoor areas. It should be noted that the proposed indoor operating hours will result in a reduction of the closing time of the premises from 2.00am to 12.00am midnight and will simplify the management of the indoor and outdoor areas, as detailed below.
 - (b) The DCP recommends permanent base hours for outdoor operations between 10.00am and 8.00pm. These base hours are also consistent with the existing permanent outdoor hours under the 2016 consent. Extended hours between 8.00pm and 12 midnight are supported on a two-year trial period basis.
 - (c) Subject to the imposition of conditions that require on-going compliance with the recommendations of the acoustic report, including patron capacity limits for the outdoor areas and compliance with the management practices of the Plan of Management, the City's Health and Building Unit and Licensed Premises unit are satisfied that the premises can operate without adverse impacts.
 - (d) Whilst the premises currently has a 5 year trial period for the hours of use of its outdoor areas which expires on 30 March 2025, it is noted that the change of use will remove the requirement for patrons to be seated and introduces a change in operation and management practices. The applicant has sought that the outdoor hours be approved on a 5-year trial period. Noting this change in use and operation, it is recommended that outdoor hours of operation between 8.00pm and 12 midnight be supported on a initial 12 month trial period, in accordance with the SDCP. This will allow Council to review the management of the premises under this new use and changed operation requirements, and ensure that it is demonstrating good management without adverse impacts.
 - (e) Subject to conditions, the proposed use should not result in an unreasonable impact upon the surrounding area.

Surrender of consent D/2016/1025

48. To ensure that the approved use does not operate under more than one development consent, a condition of consent is recommended requiring the surrender of approval D/2016/1025.
49. The relevant operational conditions imposed under D/2016/1025 will be consolidated into the notice of determination of the subject development consent. Ongoing compliance with the approved Odour Management Plan, Cleaning and Maintenance Schedule and Barangaroo South Operational Waste Management Plan will be conditioned.

Consultation

Internal Referrals

50. The application was discussed with Council's;
 - (a) Environmental Health Unit;
 - (b) Licenced Premises Unit;
51. 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

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

Advertising and Notification

54. In accordance with the City of Sydney Community Participation Plan 2023, the proposed development was notified for a period of 21 days between 9 October 2024 and 30 October 2024. A total of 872 properties were notified and no submissions were received.

Financial Contributions

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

55. The cost of works is nil as there are no works proposed. Therefore, a contribution is not required under Section 7.12 of the Environmental Planning and Assessment Regulations 2000.

Relevant Legislation

56. Environmental Planning and Assessment Act 1979.

Conclusion

57. The proposed development application seeks consent for the change of use of the level 4 rooftop from a restaurant (with an on-premises licence) to a pub (with a hotel 'general bar' licence). A total capacity of 270 persons across indoor and outdoor areas to be consistent with the existing approved capacity. The proposed change of land use classification and liquor licence to a pub with a hotel 'general bar' licence would remove current restrictions on the approved use in relation to the primary purpose being for food service and the requirement that all patrons are seated.
58. The proposed development, subject to recommended conditions, is consistent with the objectives of the B4 Mixed Use zone under SEPP (Precincts - Eastern Harbour City) 2021.
59. Under the relevant DCPs, the development is located within the City Living Area. The proposed hours of operation are generally consistent with the relevant base and extended trading hour provisions, noting the parameters of the existing development consent for the premises. The subject premises currently has permanent approved for its indoor areas to operate until 12 midnight, and a review of its operation notes that there is no history of any substantiated complaints.
60. The application has been accompanied by an Acoustic Report (assessed against the acoustic criteria for Barangaroo) and Plan of Management. Relevant City staff have reviewed these documents and concluded that the premises is capable of complying with the necessary acoustic criteria, subject to conditions. It is recommended that the indoor hours of operation be supported on a permanent basis until 12 midnight and that the outdoor area be supported on a permanent basis until 8.00pm and on a two-year trial period between 8.00pm and 12 midnight. A total capacity of 270 persons is supported, and the capacity of the outdoor areas will be limited in accordance with the recommendations of the Acoustic Report.
61. The proposed development has been assessed as being consistent with the relevant planning controls and is supported, subject to the imposition of the recommended conditions in Attachment A.
62. The development, subject to the recommended conditions, is able to operate without unreasonable disturbance or nuisance to surrounding properties.

ANDREW THOMAS

Executive Manager Planning and Development

Callum Byrnes-Krickl, Planner