

Item 5.**Development Application: 136 Oxford Street, Darlinghurst - D/2025/316****File Number: D/2025/316****Summary****Date of Submission:** 9 April 2025**Applicant:** QTOPIA LTD**Owner:** THE COUNCIL of THE CITY OF SYDNEY**Planning Consultant:** Urbis Ltd**Cost of Works:** \$229,694.00**Zoning:** The site is located in the R1 General Residential zone under the Sydney Local Environmental Plan 2012.

The proposed development is defined as an 'information and education facility' and is permissible with consent in the zone.

Proposal Summary: The application seeks consent for the use of the Taylor Square Substation and Underground Amenities as an ancillary exhibition and performance space for Qtopia Sydney for a 5-year period, including associated internal works to the substation building. The application is Integrated Development under the Heritage Act 1977.

The application is referred to the Local Planning Panel (LPP) for determination as the development is proposed on land under the control of the City of Sydney Council and has a development cost of more than \$100,000.

The application was notified for 28 days between 16 April 2025 and 15 May 2025. One submission in support of the proposal was received.

Subject to the recommended conditions, the proposed development will not result in significant impacts to the heritage item and to the amenity of surrounding sites, and is considered acceptable.

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

Development Controls:

- (i) Sydney Local Environmental Plan 2012
- (ii) Sydney Development Control Plan 2012
- (iii) SEPP (Biodiversity and Conservation) 2021
- (iv) SEPP (Transport and Infrastructure) 2021

Attachments:

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

Recommendation

It is resolved that consent be granted to Development Application Number D/2025/316 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 R1 General Residential zone.
- (B) The development will not detrimentally impact the heritage significance of the site or adversely affect the character of the Taylor Square and Darlinghurst Civic Precinct locality and the East Sydney Heritage Conservation Area.
- (C) The development, subject to conditions, will not unreasonably compromise the amenity of the locality.
- (D) The development accords with the objectives of relevant planning controls.

Background

The Site and Surrounding Development

1. The site has a legal description of Lots 1 and 2 of DP 1008763, known as 136 Oxford Street, Darlinghurst. It is irregular in shape with area of approximately 702.2sqm. The site is owned by the Council of the City of Sydney.
2. The site is located at Taylor Square, which is a paved pedestrian public plaza at the intersection of Oxford Street, Forbes Street, and Bourke Street. The site accommodates two structures: a single storey early 20th century brick building which was formerly used as a substation, and an early 20th century wrought iron and sandstone fence comprising the entrance to the subterranean underground amenity block.
3. The site is identified as an item of State heritage significance, listed as 'Taylor Square Substation No. 6 & Underground Public Conveniences' (SHR Item No. 01700) on the State Heritage Register (SHR) under the Heritage Act 1977. The site is also listed as being within the curtilage of the 'Sydney Mardi Gras Parade Route' (SHR Item No. 02069) on the SHR.
4. The site is also identified as two individual heritage items under Sydney Local Environmental Plan (LEP) 2012, being the 'Former electrical substation (No. 6) including interior' (LEP Item No. I400) and the 'Underground lavatory including interior' (LEP Item No. I401).
5. The site is located within the Oxford Street Heritage Conservation Area (HCA) (C17) under Sydney LEP 2012, and in the vicinity of several local and state significant heritage items and HCAs.
6. The site is located within the Darlinghurst Civic Precinct locality and is not identified as being subject to flooding.
7. The surrounding area is characterised by a mixture of land uses, primarily being medium density commercial and residential buildings. Located to the east of the site are the Darlinghurst Courthouse and the National Art School. To the south, across Oxford Street are low to mid rise buildings with commercial premises activating the ground floor level. To the west is the Oxford Hotel fronting Oxford Street, with residential developments to the rear. To the north of the site is the former Darlinghurst Police Station, which is now in use as the Qtopia Centre for Queer Cultures and History.
8. A site visit was carried out on 7 May 2025. Photos of the site and surrounds are provided below.

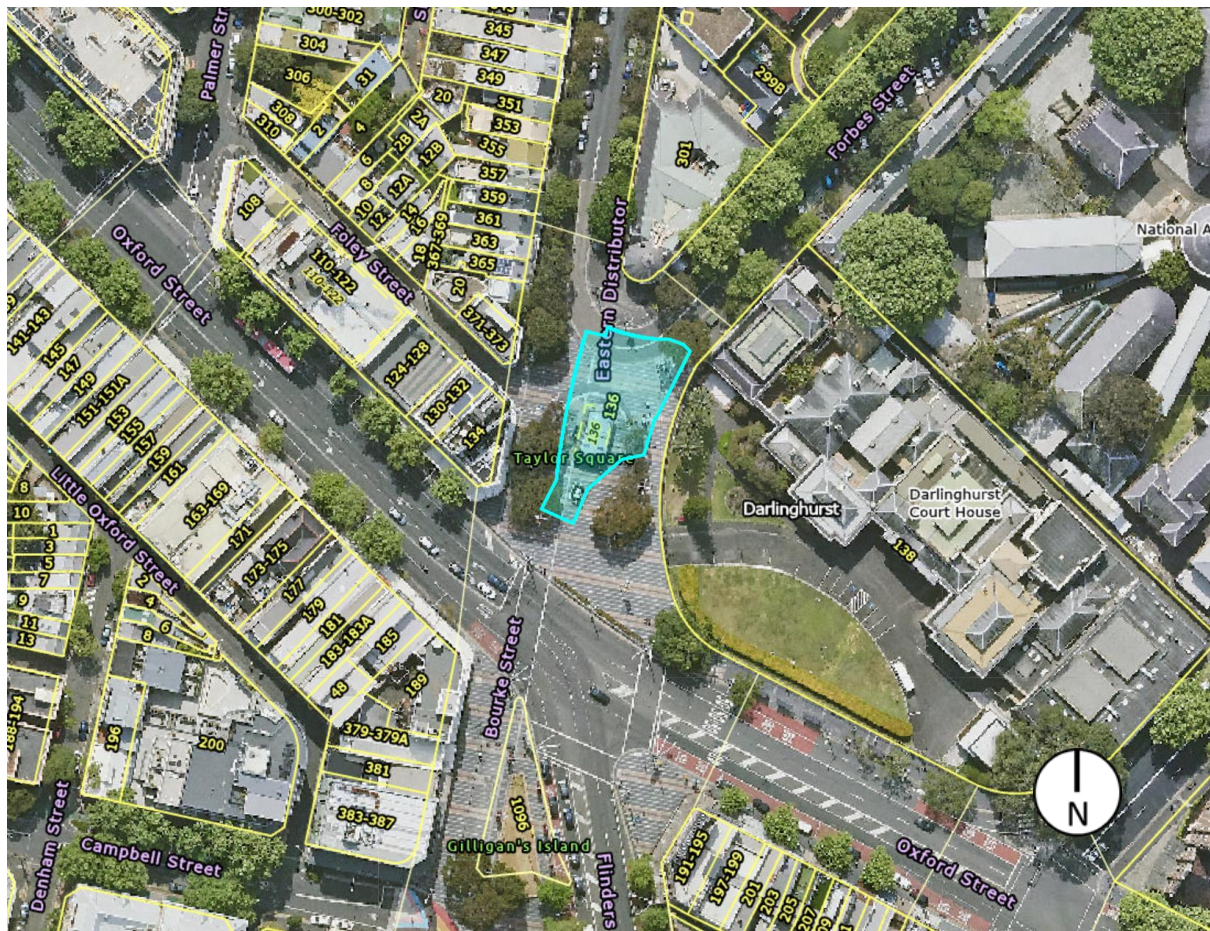


Figure 1: Aerial view of site (identified in blue) and surrounds



Figure 2: Site viewed from Taylor Square, facing north towards corner of Bourke Street and Forbes Street



Figure 3: Site viewed from Taylor Square, facing west towards the Oxford Hotel



Figure 4: Site viewed from Taylor Square, facing east towards Darlington Court House



Figure 5: Site viewed from corner of Bourke Street and Forbes Street, facing south towards Oxford Street



Figure 6: Detail view of heritage listed substation facing east



Figure 7: Detail view of heritage listed substation facing west



Figure 8: Interior view of the substation on ground floor level



Figure 9: Interior view of substation on lower ground level, facing north



Figure 10: Interior view of substation on lower ground level, facing west



Figure 11: Interior view of substation on lower ground level, facing east



Figure 12: Interior view of substation on lower ground level, facing south

History Relevant to the Development Application

Development Applications

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

- **D/2024/83** – Development consent was granted on 14 March 2024 for the temporary use of the Taylor Square Substation and Underground amenities as an ancillary exhibition space for the Qtopia Centre located at 301 Forbes Street, Darlinghurst.

The temporary use was granted for a one-year period from the date of commencement of the use. No physical works were proposed as part of the temporary use application.

The approved activities, hours of use and patron capacity are as follows:

- Use of the Substation as an exhibition space as an annex to the main Qtopia Centre at 301 Forbes Street, between 10.30am to 4.30pm, Monday to Sunday. Maximum capacity at any one time is 20 patrons.
- Use of the Substation as a performance venue between 7.00pm and 11.00pm, Monday to Sunday. Maximum capacity at any one time is 40 patrons.
- Use of the Underground amenities as an exhibition space as an annex to the main Qtopia Centre, between 10.30am and 4.30pm, Monday to Sunday. Maximum capacity at any one time is 20 patrons.
- **D/2024/83/A** – Development consent was granted on 29 April 2025 for the amendment to Condition (2) 'Temporary Uses', to extend the temporary use of the Taylor Square Substation and Underground amenities for the purpose of an information and education facility for a further one-year period.

No physical works were proposed and no modifications were sought to the operational requirements as approved under the original DA D/2024/83.

- **D/2023/1029** – Development consent was granted on 21 December 2023 for the temporary use of the former Darlinghurst Police Station building at 301 Forbes Street, Darlinghurst, as the Qtopia Centre, comprising of an information and education facility with ancillary office premises, entertainment facility, and shop.
- **D/2024/266** – Development consent was granted on 28 June 2024 for the permanent use of the former Darlinghurst Police Station building at 301 Forbes Street, Darlinghurst, as the Qtopia Centre, comprising of an information and education facility with ancillary office premises, entertainment facility, and shop.

Compliance Action

10. The site is not subject to any ongoing compliance action that is relevant to the application.

Proposed Development

11. The application seeks consent for the following:

- use of the Taylor Square Substation and Underground amenities for the purpose of an information and education facility as ancillary exhibition and performance space for the Qtopia Centre located at 301 Forbes Street
- proposed use is for a 5-year period
- proposed activities, hours of use and patron capacity remain the same as the previous approval under D/2024/83 and D/2024/83/A, which are as follows:
 - use of the Substation as an exhibition space as an annex to the main Qtopia Centre at 301 Forbes Street, between 10.30am to 4.30pm, Monday to Sunday. Maximum capacity at any one time is 20 patrons
 - use of the Substation as a performance venue between 7.00pm and 11.00pm, Monday to Sunday. Maximum capacity at any one time is 40 patrons
 - use of the Underground amenities as an exhibition space as an annex to the main Qtopia Centre, between 10.30am and 4.30pm, Monday to Sunday. Maximum capacity at any one time is 20 patrons
- associated works to the Substation as follows:
 - installation of a new air-conditioning unit and condenser to the ground floor space and the lower ground floor space, internally mounted at high level
 - installation of new acoustic panels over existing windows and ventilation grilles to the lower ground floor space
- no physical works are proposed within the Underground amenities

12. Proposed internal works to the Substation are provided below. Further plans and elevations of the proposed development are provided within Attachment B.

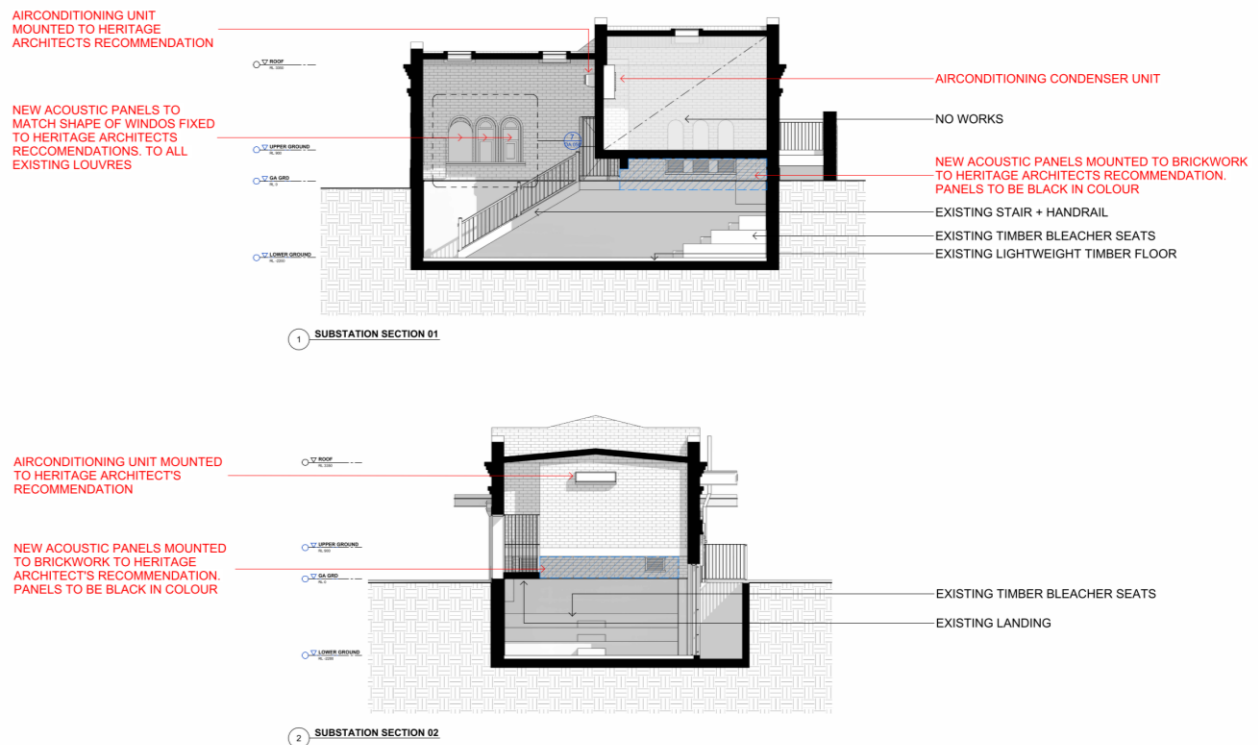


Figure 13: Internal elevations of the Substation

Assessment

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

Heritage Act 1977

- The subject site is a State Heritage item known as 'Taylor Square Substation No. 6 & Underground Public Conveniences' and is located within the curtilage of the 'Sydney Mardi Gras Parade Route' on the State Heritage Register.
- As an Integrated Development requiring approval under the Heritage Act 1977, a copy of the application was referred to Council's Heritage Specialist, under delegated authority from the Heritage Council of NSW, on 15 April 2025 in accordance with Section 42 of the Environmental Planning and Assessment Regulation 2021. A copy of the submission (one submission in support) was provided to the Heritage Council on 28 May 2025.
- On 2 May 2025, Council's Heritage Specialist, under delegated authority from the Heritage Council of NSW, issued the General Terms of Approval which are included in the recommended conditions of consent in Attachment A.

State Environmental Planning Policies

State Environmental Planning Policy (Transport and Infrastructure) 2021

17. The provisions of SEPP (Transport and Infrastructure) 2021 have been considered in the assessment of the development application.

Division 17, Subdivision 2: Development in or adjacent to road corridors and road reservations

Clause 2.119 – Development with frontage to classified road

18. The application is subject to Clause 2.119 of the SEPP as the site has frontage to Oxford Street which is a classified road.
19. The proposed development comprises of use and associated minor internal works only. The application does not propose new parking spaces and will not result in an increase to traffic noise or vehicle emissions. There is no vehicular access to the site from the classified road and the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development. Further, it is anticipated that patrons will predominantly access the site either on foot, bicycle or public transport, noting that the site is well serviced by public transport located within proximity.
20. The development is considered to satisfy the provisions of Clause 2.119.

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

6 Water Catchments

21. 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.
22. 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. The proposed development comprises of use and associated minor internal works only and will not impact on the water quality and quantity of the area.
23. The development is considered to satisfy the relevant matters for consideration.

Local Environmental Plans

Sydney Local Environmental Plan 2012

24. 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 R1 General Residential zone. The proposed development is defined as an information and education facility and is permissible with consent in the zone. The proposal generally meets the objectives of the zone.

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	Yes	<p>The site is listed on the State Heritage Register and is a locally listed item under SLEP 2012. The site is also located within the curtilage of the State listed 'Sydney Mardi Gras Parade Route and is within the Oxford Street HCA.</p> <p>The proposal to extend current use of the Substation and Underground amenities as an annex to the main Qtopia Centre for 5 years will not impact on the heritage values and is consistent with the social values of the heritage item as the birthplace of gay activism in Australia. The proposed internal works do not result in an unacceptable impact to the heritage fabric of the Substation.</p> <p>The proposed development will not have detrimental impact on the heritage significance of the heritage conservation area and the heritage items subject to the recommended conditions, which include the General Terms of Approval provided under the delegated authority from the NSW Heritage Council.</p>

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 5 Site specific provisions		
6.60D Oxford Street Cultural and Creative Precinct	Yes	<p>The proposed development does not create additional height and floor space to the existing buildings.</p> <p>Notwithstanding, the development reuses the existing buildings for an information and education facility, for cultural or creative purposes by providing exhibition and performances spaces as an annex to the main Qtopia Centre.</p> <p>The development will continue to help promote Oxford Street as a local centre for education and tourism opportunities and reinforces the status of the Precinct as a strategic centre encouraging development for cultural or creative purposes.</p>

Part 7 Local provisions – general

Provision	Compliance	Comment
7.22A Use of other existing non-residential buildings in Zone R1.	Yes	<p>The proposed development continues use of the existing heritage listed Substation and Underground amenities buildings for cultural and creative purposes, will not result in detrimental impacts to the heritage significance of the site, and will not detract from the amenity of the surrounding locality and residential developments subject to the recommended conditions.</p>

Development Control Plans**Sydney Development Control Plan 2012**

25. 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

26. The site is located within the Taylor Square and Darlinghurst Civic Precinct locality (2.4.11). The proposed development is in keeping with the unique character and the design principles of the locality as the proposal continues the adaptive reuse of the heritage listed Substation and Underground amenities for an information and education facility with minimal internal works to the Substation, which will maintain the historic civic and institutional character of the area.

Section 3 – General Provisions

Provision	Compliance	Comment
3.9 Heritage	Yes	<p>As discussed in the table above under Part 5.10 of the SLEP 2012, the proposed development will not have a detrimental impact on the heritage significance of the heritage conservation area and the items.</p> <p>Council's Heritage Specialist has reviewed the proposal and has raised no issues subject to the recommended conditions, which include the General Terms of Approval provided under the delegated authority from the NSW Heritage Council.</p>
3.10 Significant Architectural Building Types 3.10.1 Warehouse and industrial buildings older than 50 years	Yes	<p>The proposed continued use of the Substation and the Underground amenities as an annex to the main Qtopia Centre and minor internal works to the Substation are sympathetic to the existing fabric and design of the buildings. The proposed physical works are reversible, apart from minor penetrations to an internal brick wall for the installation of the air-conditioning units and will not compromise the heritage significance of the items subject to the recommended conditions. The original use of the two buildings will remain interpretable, through the retention of significant external and internal fabric which relates to their respective uses.</p>
3.11 Transport and Parking	Yes	<p>The application retains the built form of the existing Substation and Underground amenities buildings, does not propose new parking spaces or vehicular access and will not result in an increase to traffic. It is anticipated that patrons will predominantly access the site either on foot, bicycle or public</p>

Provision	Compliance	Comment
		transport, noting that the site is well serviced by public transport located within proximity.
3.12 Accessible Design	Yes	<p>The exhibition and performance spaces within the Substation and the Underground amenities is not accessible for people with disabilities. The submitted Performance Based Design Brief (PBDB) and Performance Based Design Solution (PBDS) prepared by iAccess Consultants have identified a performance-based solution for representative access to the performances in the form of virtual access via simultaneous broadcast in the main Qtopia Centre, which will also minimise impact on significant fabric of the items. This is considered acceptable and satisfying the relevant objectives and provisions of this Section.</p> <p>A condition is recommended for documentation to be approved by the Certifier prior to the issue of a construction certificate and occupation certificate to ensure compliance with the submitted BCA Capability Statement prepared by BMPLUSG, which reflects the findings of the PBDB and PBDS.</p>
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 outside of a late night management area, but immediately adjacent to buildings fronting Oxford Street within a late night management area.</p> <p>See further details under the sub-heading 'Late night trading' in the 'Discussion' section below.</p>

Section 4 – Development Types

4.4 Other Development Types and Uses

Provision	Compliance	Comment
4.4.9 Small scale and other cultural activities	Yes	<p>The proposed capacity is well under 120 patrons, with maximum 20 patrons for the exhibition spaces in the Substation and Underground amenities and maximum 40 patrons for performances in the Substation. Adequate Plan of Managements (POMs) for the Substation and the Underground amenities, including adequate patron management measures, have been provided to support the application.</p> <p>The proposed development provides social and economic benefits for residents, workers and visitors and contributes to the community's diverse and evolving cultural life. The proposal will not result in significant adverse impact on the amenity of nearby residential development subject to recommended conditions, including noise management, compliance with the submitted POMs and the BCA Capability Statement.</p>

Section 5 – Specific Areas

Provision	Compliance	Comment
5.11 Oxford Street Cultural and Creative Precinct	Yes	<p>The proposed use of the Substation and the Underground amenities as annex to the main Qtopia Centre will promote the preservation and strengthening of the area as a focal point for LGBTIQA+ community life and culture. The proposal activates the premises which were vacant prior to the current use that was approved under D/2024/83 and subsequent D/2024/83/A and helps to activate a more diverse night-time economy on Oxford Street. The proposal helps to increase cultural and creative spaces within the Precinct whilst maintaining significant heritage fabric and the heritage significance of the items and the heritage conservation area.</p>

Discussion

Section 3.15 of Sydney DCP 2012 'Late Night Trading Management'

27. The premises is located outside of a late night management area, but immediately adjacent to buildings fronting Oxford Street within a late night management area. The proposed use is classified as Category B. As per Table 3.7 of the DCP, hours of operation for the premises are as follows:
 - (a) base internal hours are 7am to 10pm and
 - (b) extended internal hours are 7am to midnight
28. The proposed hours of operation for the Substation and the Underground amenities to operate as an exhibition space are 10.30am to 4.30pm, Monday to Sunday, with a maximum capacity of 20 patrons at any one time.
29. The proposed hours of operation for the Substation to operate as a performance venue are 7.00pm to 11.00pm, Monday to Sunday, with a maximum capacity of 40 patrons at any one time.
30. The proposed hours of operation falls within the extended hours permissible for the premises and complies with Section 3.15 of the DCP.
31. Section 3.15.4(3)(9) of the DCP requires any hours that are beyond base hours be subject to a trial period of 2 years in the first trial, and 5 years in second and subsequent trials. The proposed duration of 5 years under the subject DA is considered acceptable in this instance for reasons as follows:
 - (a) The proposed development continues the same use of the premises as ancillary exhibition and performance space to the main Qtopia Centre approved on a one-year trial basis under the initial DA D/2024/83 (approved 14 March 2024), and a further one-year trial basis under the subsequent modification (approved 29 April 2025).
 - (b) No substantiated complaints or compliance issues have arisen from the current use since the approvals under D/2024/83 and D/2024/83/A.
 - (c) The premises is located adjacent to a late night management area, which provides longer hours of operation for Category B as follows:
 - (i) Base internal hours are 6.00am to 2.00am.
 - (ii) Extended internal hours are 24 hours.

Consultation

Internal Referrals

32. The application was discussed with Council's:
 - (a) Building Services Unit;
 - (b) Environmental Health Unit;

- (c) Licenced Premises Unit; and
 - (d) Heritage Specialist.
33. The above advised that the proposal is acceptable subject to conditions. Where appropriate, these conditions are included in the recommended conditions of consent.

External Referrals

NSW Heritage Council

34. Pursuant to the Heritage Act 1977, the application was referred to NSW Heritage Council on 15 April 2025.
35. As discussed above, General Terms of Approval were issued on 2 May 2025 and have been included in the schedules within the recommended conditions of consent.

NSW Police

36. The application was referred to NSW Police for comment.
37. No response was received.

Advertising and Notification

38. In accordance with the City of Sydney Community Participation Plan 2024, the proposed development was notified for a period of 28 days between 16 April 2025 and 15 May 2025. A total of 277 properties were notified and 1 submission, noting support for the proposal, was received.

Financial Contributions

Contribution under Section 7.11 of the EP&A Act 1979

39. The City of Sydney Development Contributions Plan 2015 applies to the site. The development is subject to a section 7.11 local infrastructure contribution under this Plan.
40. A condition relating to this local infrastructure contribution has been included in the recommended conditions of consent. The condition requires the contribution to be paid prior to the issue of a construction certificate.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

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

Housing and Productivity Contribution

42. The development is not subject to a Housing and Productivity Contribution under the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023.

Relevant Legislation

43. Environmental Planning and Assessment Act 1979.
44. Heritage Act 1977.

Conclusion

45. The proposed development will support the realisation of the Oxford Street Cultural and Creative Precinct as a centre for cultural and creative purposes, contribute to the activation of Oxford Street and the day and night-time economies, and promote the preservation and strengthening of the Precinct as a focal point for LGBTIQ+ community life and culture.
46. The proposed development is considered appropriate and generally compliant with the relevant planning controls required by the Sydney LEP 2012 and Sydney DCP 2012.
47. The proposed operation of the Taylor Square Substation and Underground amenities is not considered to result in detrimental impacts to the amenity of surrounding sites subject to recommended conditions.

ANDREW THOMAS

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