

# **Attachment E**

<b>Submissions</b>
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**From:** Joel Stuart <JStuart@cityofsydney.nsw.gov.au> on behalf of Joel Stuart  
<JStuart@cityofsydney.nsw.gov.au> <Joel Stuart <JStuart@cityofsydney.nsw.gov.au>>  
**Sent on:** Tuesday, June 3, 2025 8:59:35 AM  
**To:** DASubmissions <DASubmissions@cityofsydney.nsw.gov.au>  
**Subject:** FW: DEVELOPMENT APPLICATION D/2025/399  
**Attachments:** Letter to City of Sydney Council D-2025-399.pdf (426.67 KB)

Please process the below and attached submission.

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**From:** Carolyn Kelly [REDACTED]  
**Sent:** Monday, 2 June 2025 6:45 PM  
**To:** City of Sydney <council@cityofsydney.nsw.gov.au>; Joel Stuart <JStuart@cityofsydney.nsw.gov.au>  
**Subject:** DEVELOPMENT APPLICATION D/2025/399

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Please find attached submission re DA

Regards

**Carolyn Kelly**  
*Managing Director*

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2 June 2025

Mr J Stuart  
Planner  
City of Sydney Council

By email: [council@cityofsydney.nsw.gov.au/jstuart@cityofsydney.nsw.gov.au](mailto:council@cityofsydney.nsw.gov.au/jstuart@cityofsydney.nsw.gov.au)

Dear Mr Stuart,

**RE: DEVELOPMENT APPLICATION D/2025/399  
APPLICATION FOR CHANGE OF USE OF BASEMENT TENANCY B02  
KNOWN AS 'SERI BAR' FROM A SMALL BAR TO A PUB (GENERAL BAR)  
WITH CAPACITY OF 249 PERSONS AND TRADING HOURS OF FROM 6.00  
AM TO 4.00 AM EACH DAY**

We provide this submission on behalf of the owners and or/operators of certain premises in the Haymarket area.

We request that Council take into consideration the below matters when determining the abovementioned application.

## **1. Overview**

- 1.1 The proposal is to change the use of the premises from a small bar to a pub (hotel general bar). That will result in a change of the premises from a Category B Low Impact premises to a Category A High Impact Premises.
- 1.2 As such, in accordance with the Local Planning Panels Direction relating to development applications, the application will be required to be determined by Council's Local Planning Panel.
- 1.3 The premises are located within the Capitol Square development which houses the Capitol Square accommodation hotel. There are also other sensitive receivers nearby.
- 1.4 The proposal is to more than double the capacity of the premises from 120 persons to 249 persons. For the reasons detailed below, the premises are not sufficient in size to accommodate the proposed capacity. If Council is minded to grant the application, then a reduced capacity of 165 occupants should be imposed (being the capacity permitted based on an area per square metres referred to in the BCA report that accompanied the application).

- 1.5 The Plan of Management that accompanies the application is not in accordance with Council's requirements as set out in the Sydney DCP 2012 (the "DCP") in particular relating to the provision of security personnel at the premises. An amended plan of Management should be prepared which complies with requirements.
- 1.6 Notwithstanding that the proposal as sought will result in the change of the use to a Category A pub/hotel high impact premises and a more than doubling of the capacity, the Plan of Management does not specify the number of security personnel to be employed at the premises or their duties. As such, to ensure that the premises are operated in accordance with requirements and do not result in adverse impacts to the amenity of the area including sensitive receivers, Council's usual condition should be imposed requiring the provision of licensed security personnel at the ratio of 1 officer per 100 patrons or part thereof from 8.00 pm.
- 1.7 A previous report prepared by Council in relation to the venue refers to compliance action by Council concerning the current operator of the premises.
- 1.8 Considering the proposed changes sought, it is submitted that initially trading hours of only 2.00 each day should be approved, with trading after midnight the subject of a trial period.

## **2. Application required to be determined by Local Planning Panel**

- 2.1 The proposal is to change the existing use from a Category B Low Impact Premises situated in a late-night management area, being a small bar the subject of a small bar licence, to a Category A High Impact Premises being a pub the subject of a hotel general bar licence (referred to in the DCP as a hotel within the meaning of the Liquor Act 2007 that has a capacity of more than 120 patrons and is designated as a general bar licence).
- 2.2 The Statement of Environmental Effects (SEE) provided in relation to the application indicates that the relevant proposal is for a pub to be the subject of a hotel general bar licence (see pages 7, 8, & 10).
- 2.3 The Local Planning Panels Direction – development applications and applications to modify development consents issued by the Minister for Planning and Public Spaces in May 2024, provides that the Local Planning Panel of Sydney City Council is to determine development applications for development of a kind specified in Schedule 3 of the Direction which includes development applications for the purposes of new licensed premises that will require a hotel (general bar) licence under the Liquor Act 2007.
- 2.4 In the event that the development application is approved, an application will subsequently need to be made to the Independent Liquor and Gaming Authority to change the licence type applying to the premises from small bar licence to hotel (general bar) licence.
- 2.5 As such, the relevant application will need to be determined by the Panel.

## **3. Description of Use**

- 3.1 As the application is being made on the basis that the proposal is for a premises to be the subject of a hotel (general bar licence), then the description of the use should reflect that.

- 3.2 Accordingly, if Council is minded to grant the consent, then the relevant description of the use should be:

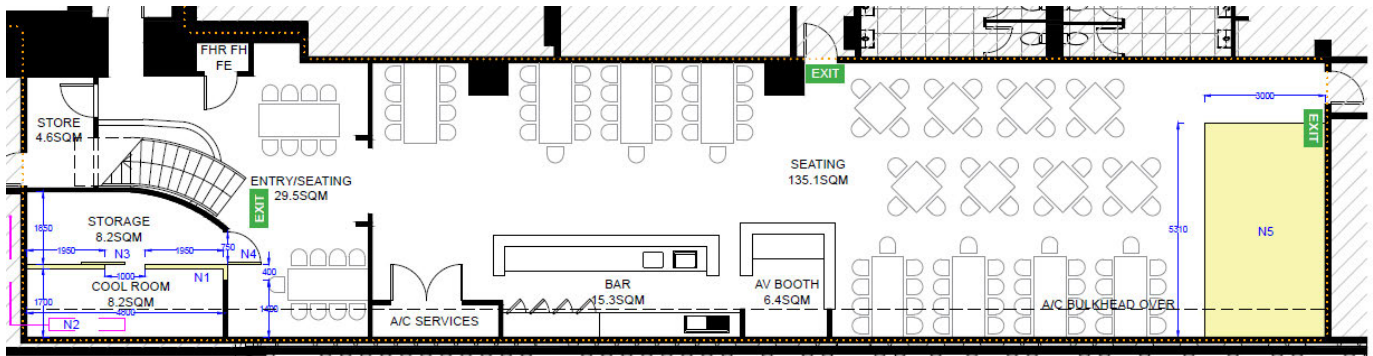
***“Change of use of the basement tenancy B02 known as ‘Seri Bar’ from a small bar to a pub (general bar).”***

**4. The premises is not sufficient in size to accommodate the capacity of 249 persons sought in the application**

- 4.1 The premises are presently the subject of development consent D/2023/213 for use as a small bar with a capacity of 120 persons including staff, patrons and performers.

- 4.2 The SEE accompanying the current application indicates that the design of the proposed premises creates an *intimate atmosphere* enjoyed with live entertainment, cocktails and Thai food.

- 4.3 Below is a part copy of the plan accompanying the application denoting the layout of the premises.



- 4.4 The premises occupy the basement level and access is via a stairway leading from Hay Street.

- 4.5 The plan denotes that the proposed development will include the following:

- An office (22.3 sqm), storeroom (4.65 sqm), storage area (8.28sqm) and cool room (8.26 sqm) to the south of the stairway that leads into the basement area.
- An entry/seating area at the foot of the stairway with a thoroughfare leading to the main seating area and tables and seats on either side of the area (which entry area is 29.55 sqm in total).
- Main seating/bar/entertainment area consisting of various tables and seats bar area, AV booth and stage area (the stage area occupies an area of 16 sqm). The seating area excluding the bar, stage and other areas, is referred to as 135.1 sqm and the majority of the area is occupied by tables and seats (other than a small area around the bar and thoroughfares for patrons entering and leaving or accessing toilets).

- 4.6 The above plan denotes tables and seating for 120 patrons in the combined entry/seating area and the main seating area. In the area referred to as entry/seating area there are 17

seats at 2 tables with 8 seats on one side of the thoroughfare used by patrons entering the premises, and 9 seats on the other side. In the main area there is seating for 103 persons.

- 4.7 Having regard to the seating layout in the entry/seating area and as patron entry/egress is through that area, there is little if any space for standing within that area. In addition, in the main area having regard to the stage, bar, and other areas, and as most of the available space is taken up by the tables and seats other than a small area around the bar and small thoroughfare areas for patrons to enter and leave and access toilets, there is also minimal space for patrons who are standing.
  - 4.8 The BCA report that accompanies the application, refers to a maximum capacity of 165 occupants based on the area per square metres (page 2). There is insufficient material in the report to demonstrate that it would be safe for the premises to accommodate a capacity above that.
  - 4.9 Accordingly, the internal space of the premises is not adequate to support the proposed capacity of 249 persons and a capacity significantly less than that capacity appears to be an appropriate capacity. It would be suggested that that capacity should be no more than 165 occupants.
  - 4.10 In development application D/2023/425 for fit-out and use of a certain level of premises at 94 Hay Street, Haymarket, as a small bar which was also to comprise a bar with stage and entertainment area, Police raised concerns in relation to the proposed internal patron capacity. Police noted in their submission to Council that: the furniture layout appears to dominate the area and also appears to be somewhat congested; the remaining floor area was dedicated to a fixed stage and designated dance floor/standing area; they were not satisfied that the area could hold the capacity proposed and would likely create congestion, leading to patron frustration; they did not support the removal of the furniture on the basis that it would alter the business model, activities and general patron behaviour and encourage standing and dancing activities normally associated with a nightclub; and concluded that a reduced layout would be more workable, comfortable and safe and submitted that Council reassess and amend the usable space to accommodate a safe, realistic and practical use of the space.
  - 4.11 Council concurred with the issues raised by the Police, and when granting the consent reduced the patron capacity to a number substantially less than that sought by the applicant (being from 90 to 50).
  - 4.12 In the present matter, based on the layout and proposed manner of operation (which is described in the application as creating an “intimate atmosphere”), in the circumstances a reduced capacity of 165 would be more workable, comfortable, and safe, and minimise the potential for congestion.
- 5. Inadequate security proposed for the premises considering the intensification of the use being sought**
- 5.1 As noted at section 7 below the Plan of Management that accompanies the application is not in accordance with the DCP including in relation to the provision of security personnel. Moreover, the Plan of Management is entirely deficient in terms of security considering the intensification of the use that is being sought.

- 5.2 Notwithstanding that the proposal is to convert the hotel from a low impact small bar to a high impact pub/hotel and more than double the capacity of the venue (which venue will also operate as an entertainment venue), the applicant provides no details in the material accompanying the application, including the Plan of Management, as to the numbers of security personnel to be provided and their duties.
- 5.3 Schedule 3 of the DCP requires that the type of application being made be accompanied by a Plan of Management which addresses various matters in relation to the provision of security personnel at the premises including: the number and type of staff (including security to be provided); a description of the arrangements that will be made for the provision of security staff that is to include but not be limited to various matters including the number of security personnel that will be patrolling inside and outside the premises including the frequency of security patrols, identification of physical extent of any patrolled areas outside the premises, the hours the security personnel will be on duty including the period after closing time, staff security training, weapons detection and other security response methods; measures that will be taken by security personnel to ensure that the behaviour of staff patrons when entering and leaving the premises will minimise disturbance to the neighbourhood; any provision that will be made to increase security in times where higher than average patronage is expected; the types of procedures and provisions that will be implemented to improve premises security; what measures will be in place in relation to queuing, how often security guards will monitor queues etc.
- 5.4 At Section 5.03 under the heading “Security Measures” in the Plan of Management that accompanies the application, all that is provided relating to security is as follows:
- Para 63 - security deployed at the premises are required to adhere to this part of the Plan of Management.
  - 64 - the licensee would deploy adequate security to ensure that the premises does not cause (or contribute to) security problems in the neighbouring area and is well managed.
  - 65 - the licensee and the duty manager will be responsible for monitoring and maintaining occupancy levels.
- 5.5 It is generally the practice of Council when considering a development application for a Category A High Impact Premises that will be the subject of a hotel licence, to impose its standard security condition in the following terms:

***“SECURITY AND QUEUING – CATEGORY A LICENSED PREMISES***

- (a) Security guards are to be provided at the premises on Mondays to Sundays from 8.00 pm until close at a minimum ratio of one security staff member to 100 patrons or part thereof.***
- (b) Security personnel shall remain at the premises for at least 30 minutes after closing and shall assist in ensuring that patrons leave quietly.***
- (c) All licensed security officers whilst employed at the premises are to wear clearly identifiable security attire at all times, with the word “SECURITY”***

*clearly identifiable in bold printed at least 100mm high on the front and back.*

*(d) Management and staff at the venue shall ensure that a clear footway is maintained at all times or footpath adjoining the premises. Patrons waiting to enter the premises shall queue along the immediate frontage of the premises. The queue must not obstruct any fire exit of any building or entrance to any other premises.*

*(e) When more than one security guard is on duty, security officers and managers shall communicate by hand-held radios at all times."*

- 5.6 Considering the above, Council cannot be satisfied that the operator will employ security at the premises in sufficient numbers to ensure compliance with any conditions of the consent and that the manner of operation of the intensified use will not adversely impact the amenity of the neighbourhood. Therefore, it is submitted that the circumstances warrant the imposition of that condition by Council.

## **6. Trading hours of no later than 2.00 am should be approved**

- 6.1 The proposal involves a significant intensification of the use being from a category B low impact premises to a category high impact premises with a more than doubling of the capacity for the premises. This will also involve a change in the licence type from small bar licence to hotel general bar licence.
- 6.2 The premises are located within the Capitol Square development and in the vicinity of various sensitive receivers. That includes the accommodation component of Capitol Square and other residential premises on Campbell Street.
- 6.3 Section 3.15.4 of the Sydney DCP provides that the base trading hours for Category A Premises in a late-night management area are from 6.00 am to midnight for indoor areas. Extended hours of up to 24 hours are permissible.
- 6.4 Notwithstanding that the proposal is to substantially increase the current approved patron capacity, the applicant is seeking that extended hours of 4 hours beyond base hours initially be approved.
- 6.5 The SEE indicates that searches with Council returned an absence of substantiated complaints or operational infringement indicative of the premises' good management.
- 6.6 However, a report prepared by Council in relation to modification application in relation to hours concerning the small bar (D/2023/213/A), indicated that the premises were previously the subject of a customer complaint in December 2023. As a result, Council's Health Officers conducted an inspection of the premises and identified a number of compliance issues.
- 6.7 The Plan of Management filed with the application does not accord with Council's requirements and Council cannot be satisfied that the operator will provide security personnel at levels sufficient to ensure that the neighbourhood is not adversely impacted by the intensified use.



- 6.8 The Plan of Management filed with the application also indicates that bottles of wine purchased to consume with a meal will be removed from the premises so long as they are resealed. Premises the subject of a hotel (general bar) licence do not permit the sale of liquor for takeaway.
- 6.9 Accordingly, it is submitted that if Council is minded to grant the application that extended hours of only 2.00 am should initially be approved with trading between midnight and 2.00 am the subject of a trial period of no more than 2 years in order that the applicant can demonstrate good management of the high impact venue with increased patron capacity.

## **7. Plan of Management not in accordance with DCP**

- 7.1 The Plan of Management provided in relation to the application is not in accordance with the requirements set out in Schedule 3 of the DCP. For instance, the matters not dealt in the Plan of Management include (but are not limited to):
- Identification of any ‘active areas’ adjacent to the boundaries of the site.
  - Location of air-conditioning, exhaust fan systems and security alarms.
  - Identification of the most commonly used pedestrian routes to and from the premises, including any safety corridors.
  - The number and type of staff (including security).
  - A description of any arrangements that will be made for the provision of security staff this is to include (but is not limited to) the following:
    - Any recommendations from local Licensing Police regarding appropriate security provisions outlining the extent of compliance with Police recommendations;
    - The number of security personnel that will be patrolling inside and outside the premises including the frequency of security patrols;
    - Identification of the physical extent of any patrolled areas outside the premises;
    - Hours that security personnel will be on duty (including the period after closing time);
    - Staff security training, weapons detection and other security response methods.
  - Details of methods that will increase patron awareness of public transport availability.
  - Details of methods that will increase patron awareness of responsible disposal of cigarette butts.
  - Measures that will be taken by security personnel to ensure that the behaviour of staff and patrons when entering and leaving the premises will minimise disturbance to the neighbourhood.

- Any provisions that will be made to increase security in times where higher than average patronage is expected.
- The types of procedures and provisions that will be implemented to improve premises security as set out in paragraph 3.2(1)(f)(iv) – under the heading security and safety.
- If queuing outside the premises is to occur the description of any measures that will be taken to ensure that queuing is controlled in a manner that will not adversely impact the amenity of the neighbourhood, and that the footpath will not be unreasonably impeded. That may include such matters the description of how and how often security guards will monitor queues, maximum queue numbers, actions taken to minimise loitering etc.

7.2 The applicant should be required to provide an updated Plan of Management which complies with the DCP and demonstrates a commitment to good management including the provision of security personnel.

It is requested that Council have regard to the abovementioned matters/deficiencies, and if it is minded to approve the application, then for the reasons outlined a reduced capacity and reduced hours should be approved, and Council's standard condition imposed relating to the provision of security personnel.

Yours faithfully

SURFSIDE PTY LTD



Carolyn Kelly

Director

