

Item 4.

Development Application: 71, 73 and 75 York Street, 46-52 King Street and 104-118 Clarence Street, Sydney - D/2024/1018

File Number: D/2024/1018

Summary

Date of Submission: 18 November 2024

Amended drawings and supporting documentation submitted on 12 February 2025, 22 May 2025, 23 June 2025, 29 July 2025, 11 September 2025, 25 September 2025 and 26 September 2025

Applicant: Merivale CBD Pty Limited

Architect/Designer: SJB

Developer: Merivale

Owner: Merivale CBD Pty Limited

JH Clarence #2 Pty Limited

The Owners - Strata Plan No 61233

The Owners - Strata Plan No 17719

Planning Consultant: Ethos Urban

Heritage Consultant: City Plan Heritage

Cost of Works: \$56,650,000

Zoning: SP5 Metropolitan Centre

The application comprises a concept development for food and drink premises, tourist and visitor accommodation and commercial offices which are permissible with consent.

Proposal Summary: The proposal seeks consent for a concept mixed-use development comprising tourist and visitor accommodation, food and drink premises and commercial office uses.

The application seeks a maximum capacity of 8,211 persons and proposes indoor hours of operation of 24-hours daily and outdoor hours between 10.00am and 12.00 midnight.

The proposal also seeks consent for works to facilitate the future uses including the partial demolition of the rear of 73 York Street, demolition of existing fire stairs, removal of some lifts and the replacement of lifts and fire stairs. Other works proposed include the reinstatement of the original cartway within 104-118 Clarence Street, the creation of openings between buildings and the creation of a new waste storage area and loading dock within the basement level of 71 York Street.

The site contains five separate buildings, all of which are listed as heritage items of either local or state significance under the Sydney Local Environmental Plan 2012 and the Heritage Act 1977.

As the application involves the development of one or more heritage items listed on the State Heritage Register under the Heritage Act 1977, the application constitutes Integrated Development. General Terms of Approval were issued by Heritage NSW on 2 October 2025.

The application is referred to the Central Sydney Planning Committee (CSPC) for determination as the proposal is "major development" for the purposes of the City of Sydney Act 1988.

During the assessment of the application, the scheme was amended, and additional information was submitted to address the concerns of Council officers and other public authorities. These concerns principally related to the:

- scope of works
- adequacy of the heritage assessment
- site access and servicing
- waste management; and
- operational management

These issues were largely addressed by the applicant in amended plans and the submission of additional supporting documentation. Subject to the adoption of the recommended conditions of consent, the proposal is now considered to achieve an acceptable degree of compliance with the relevant planning controls, maintains the heritage significance of each heritage item located within the site and will not adversely impact surrounding developments.

The application was notified for 30 days between 19 November 2024 and 18 December 2024, with 30 submissions received. Following the submission of amended plans on 22 May 2025, the application was renotified for 30 days between 12 June 2025 and 11 July 2025, with 32 additional submissions received.

Overall, a total of 62 submissions from 41 individual submitters were received. Of the submissions, 2 were in support of the proposal and 60 were objecting to the proposal.

Submissions in support noted the positive social and commercial contribution that the proposal will have on Central Sydney and its contribution to the late-night economy.

Concerns raised in submissions include the following:

- Owner's consent
- Loss of housing in Central Sydney
- Reduced residential amenity
- Noise impacts from the proposed use on surrounding uses
- Traffic impacts
- Negative heritage impacts on subject buildings and surrounding heritage items
- Unlawful use of the driveway easement
- Site overdevelopment
- Site underdevelopment
- Lack of community consultation
- Hours of operation
- Loss of commercial office space
- Oversaturation of hotels and food and drink uses in Central Sydney
- Acoustic impacts during construction
- Construction schedule and developer communication with surrounding developments
- Access to footpaths during construction

- Lack of environmental impact assessment or social impact assessment
- Lack of additional community benefits

The issues raised above are addressed and discussed within the report. Overall, the proposal has been accompanied by documentation demonstrating the development is capable of maintaining appropriate acoustic levels so as to not adversely impact existing surrounding sensitive uses, has submitted waste and traffic management strategies to ensure the local road network is not adversely impacted and has prepared heritage management documents to ensure the proposed and future works to the buildings retain and enhance the heritage significance of each building.

The application is generally compliant with the relevant planning controls and is capable of providing appropriate amenity to surrounding developments and compatible uses sympathetic to the heritage context of the site and locality. The application is generally in keeping with the desired future character of the area and, subject to compliance with recommended conditions of consent, the development is supported.

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

Development Controls:

- (i) City of Sydney Act 1988
- (ii) Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2021
- (iii) Heritage Act 1977
- (iv) SEPP (Resilience and Hazards) 2021
- (v) SEPP (Industry and Employment) 2021
- (vi) SEPP (Sustainable Buildings) 2022
- (vii) SEPP (Transport and Infrastructure) 2021
- (viii) SEPP (Biodiversity and Conservation) 2021
- (ix) Sydney Local Environmental Plan 2012
- (x) Sydney Development Control Plan 2012

Attachments:

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

Recommendation

It is resolved that consent be granted to Development Application Number D/2024/1018 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 proposal satisfies the objectives of the Environmental Planning and Assessment Act 1979 in that, subject to the imposition of appropriate conditions as recommended, it achieves the objectives of the planning controls for the site for the reasons outlined in the report to the Central Sydney Planning Committee.
- (B) The proposal generally satisfies the objectives and provisions of the Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.
- (C) The proposal is consistent with the objectives of the SP5 Metropolitan Centre.
- (D) The proposed development has acceptable impacts on the heritage significance of heritage items within the development site. The development is in accordance with the aims and objectives for heritage conservation provided in Clause 5.10 of the Sydney Local Environmental Plan 2012.
- (E) The development is considered to exhibit design excellence, consistent with the provisions of Clause 6.21C of the Sydney Local Environmental Plan 2012 and the application demonstrates the site is suitable for the proposed uses, maintains, conserves and enhances the heritage qualities of the subject site and special character area and is of a high standard of architectural design, materials and detailing.
- (F) The proposed development is unlikely to result in any significant adverse environmental or amenity impacts on surrounding properties, the public domain, and the broader Central Sydney locality, subject to conditions.
- (G) The public interest is served by the approval of the proposal, as amendments to the development application have addressed the matters raised by the City and the community, subject to recommended conditions imposed relating to heritage conservation, waste management and construction management.

Background

The Site and Surrounding Development

1. The site comprises five separate properties being:

- 71 York Street
- 73 York Street
- 75 York Street
- 46-52 King Street
- 104-118 Clarence Street

having legal descriptions of Lots 1-12 SP 61233, Lot 1 DP 86286, Lots 1-3 DP 73933, Lot 1 DP 78983, Lot 6 DP 84049, Lots 1-41 SP 17719, Lots 43-45 SP 17719 and Lots 46-47 SP 30376.

2. The site has an approximate total area of 2,421sqm. It has an approximate 55m site frontage to York Street to the east, 35m frontage to King Street to the south, and 38m frontage to Clarence Street to the west.

3. An aerial photograph of the site and its context is provided in Figure 1 below.

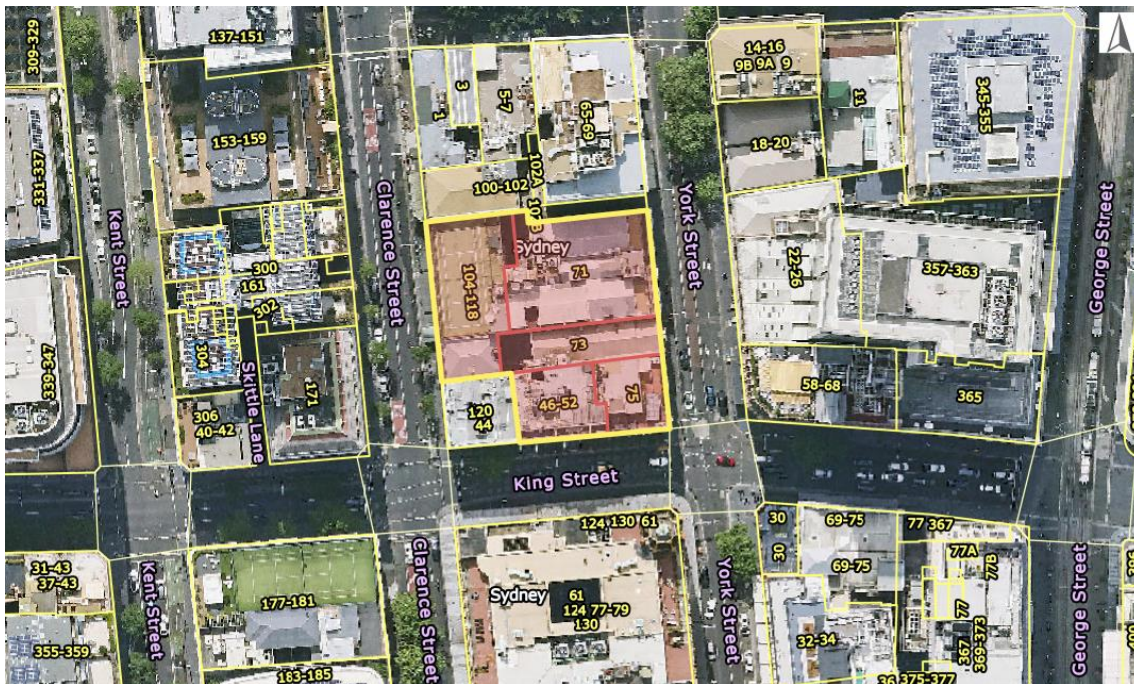


Figure 1: Aerial view of site and surrounds

4. The site contains five separate buildings described below.

5. 71 York Street is located at the north-eastern corner and contains a five-storey commercial building comprising commercial office spaces, a bar and two levels of basement car parking accessed from York Street. The building is identified as a heritage item of local significance known as the 'former "Gardiner House" including interiors' (Sydney Local Environmental Plan 2012 (SLEP 2012) item no. I1987).
6. The building was constructed in 1888 and has been modified since the original construction, however, the internal cast iron column and timber beam construction in addition to its facade clearly communicate its original warehouse function. The building is identified as a fine and intact example of the Victorian Free Classical style and includes intricate facade detailing including decorative stonework, pilasters expressing its trabeated construction and vertical rhythm, and a balustraded parapet with triangular pediments.
7. 71 York Street is historically linked to its sister warehouse at 104-118 Clarence Street (located within the subject development site), forming a rare pair of back-to-back warehouses and have now-sealed connections located within basement levels.
8. 71 York Street also benefits from an easement for access over the existing driveway directly adjoining to the north located on the site of 100-102 Clarence Street and is accessed from York Street.
9. Figures 2-4 below illustrate the existing development at 71 York Street.



Figure 2: Existing street frontage of 71 York Street

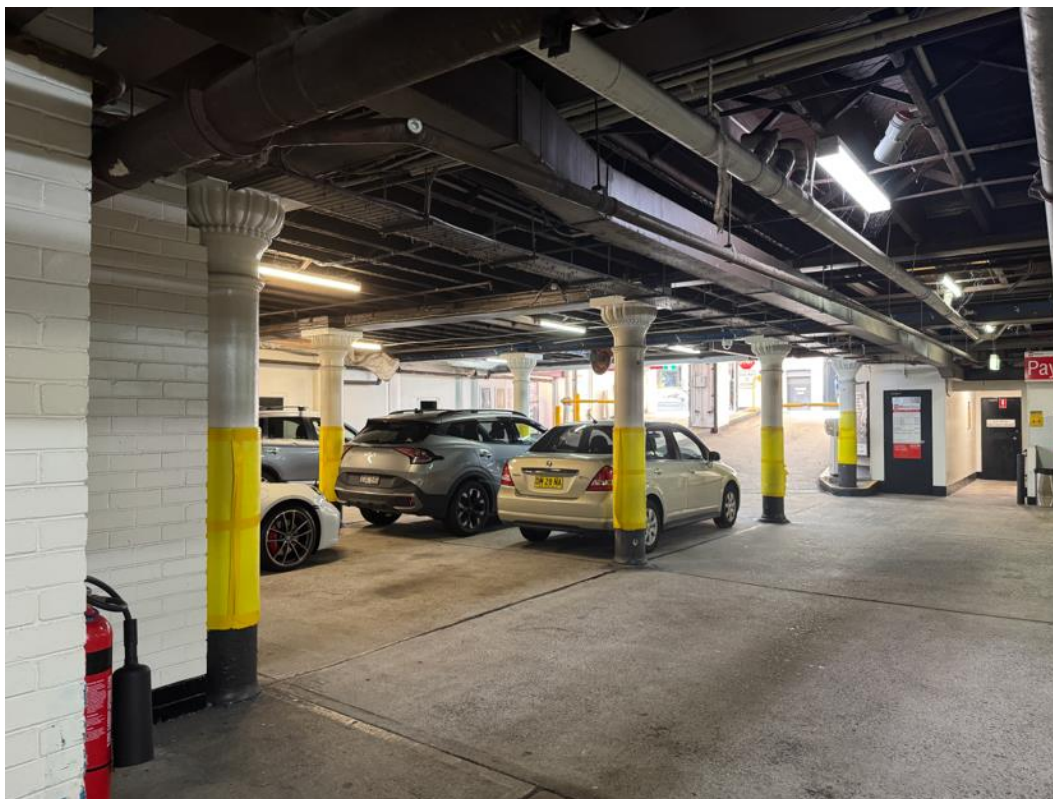


Figure 3: Existing basement level 1 within 71 York Street



Figure 4: Existing ground level within 71 York Street

10. 73 York Street is located at the centre of the development fronting York Street to the east and contains a five-storey commercial building comprising a bar on the ground and basement floors and commercial office spaces above. The building is identified as a heritage item of state significance known as the 'former "Henley House" including interiors (SLEP 2012 item no. I1988). The site is also referred to as 'Hardware House' in the State Heritage Register (SHR no. 00580).
11. The building was constructed in 1891 and demonstrates historic significance as a prominent surviving example of a Victorian Mannerist style warehouse with a relatively intact facade. The design is noted for its multi-storey oriel window, varied pediments, intensive use of pilasters, projecting cornices, and an ornate gable creating a strong vertical composition within landmark quality in the York Street streetscape.
12. Some elements of the building, including remnant cast iron columns within the basement, are examples of the original structural system and are good examples of late Victorian warehouse construction methods on narrow lots.
13. Figures 5 to 7 illustrate the existing development at 73 York Street.



Figure 5: Existing street frontage of 73 York Street

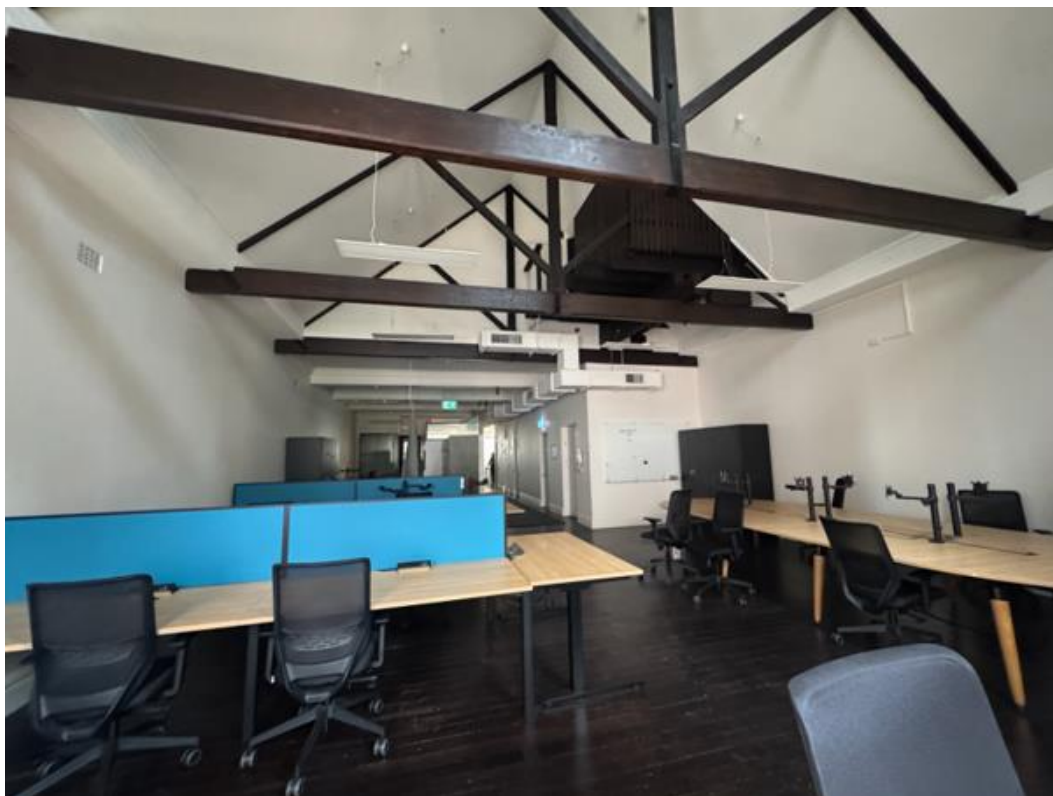


Figure 6: Existing upper floor office space within 73 York Street



Figure 7: Existing office space facing the rear lightwell within 73 York Street

14. 75 York Street is located at the south-eastern corner of the development and contains a six-storey building comprising pub uses with ancillary office space and a caretakers unit/office located on the top level. The existing pub on site is known as 'Hotel CBD' and 'York 75' and is currently operated by Merivale. The building is identified as a heritage item of state significance known as the 'former "National House" including interiors' (SLEP 2012 item no. 1989 and SHR no. 00581).
15. Constructed in 1892, National House is recognised for being part of a cohesive group of warehouse buildings that collectively reflect the establishment of York Street as an important commercial and warehouse district in Sydney. The six-storey Italianate style warehouse including surviving internal cast iron columns reinforces its rarity, especially given the predominance of Victorian Free Classical and Romanesque warehouse styles in Central Sydney.
16. Originally constructed for warehouse uses then associated with the National Bank of Australasia (later known as the National Australia Bank) from 1920 until 1984. During this time the building was extended further west increasing the King Street frontage. Later uses of the site included a bookshop until 1993 when the site was redeveloped into bar uses which formally opened as 'Hotel CBD' in 1995 and continues to operate under the same management.
17. Figures 8 and 9 below illustrate the existing development at 75 York Street.



Figure 8: Existing street frontage of 75 York Street viewed from the intersection of King Street and York Street



Figure 9: Existing ground level bar area of 75 York Street

18. 46-52 King Street is located along the southern boundary of the development fronting King Street and contains a seven-storey commercial building comprising a hairdresser on the ground floor, food and drink uses on the ground and basement floors and commercial office spaces above. The building is identified as a heritage item of local significance known as the 'former York Hotel facade' (SLEP 2012 item no. I1839).
19. The building was constructed in 1891 and originally operated as the 'Post-office Coffee Palace' or 'Ellis' Coffee Palace', providing food and drink uses and temporary accommodation. The site later operated as the York Hotel from the 1920s. During this time, the easternmost bay was demolished, later forming the western addition to 75 York Street as described above.
20. In 1985, significant alterations resulted in the original section of the facade being retained while the building's interior and the majority of the perimeter walls were rebuilt with a reinforced concrete structure. An additional four storeys were added to the building at this time as well and the use of the building changed to commercial office use with various retail and food and drink uses occupying the ground floor tenancies. The basement and a portion of the ground floor level continued to trade as the York Hotel.

21. Figure 10 below illustrates the existing development at 46-52 King Street.



Figure 10: Existing street frontage of 46-52 King Street

22. 104-118 Clarence Street is located along the western boundary of the development fronting Clarence Street and contains a six-storey mixed-use building comprising retail and food and drink uses on the ground and basement floors and residential apartments on the floors above. The building is identified as a heritage item of local significance known as the 'former warehouse "Gardiner & Co." including interiors' (SLEP 2012 item no. I1714).
23. The building at 104-114 Clarence Street was originally constructed in 1887 while 116-118 was constructed to match the style of the adjacent building in the early 1900s. Used for commercial purposes, 104-114 Clarence Street was paired with the warehouse at 71 York Street, with the two buildings sharing a rear service courtyard accessible from York Street. Historic evidence also indicated that a cartway and loading dock was located at the northern corner of the site, accessible from Clarence Street. In 1980/81, the two buildings were amalgamated and converted to a mixed-use development containing retail uses on the ground and basement floors while residential apartments were contained in the floors above. A sixth storey was added to the building at this time with a flat roof to accommodate new plant and a tennis court on the rooftop.

24. Figures 11 and 12 below illustrate the existing development at 104-118 Clarence Street.



Figure 11: Existing Street frontage of 104-118 Clarence Street



Figure 12: Existing rooftop space of 104-118 Clarence Street

25. Surrounding land uses are mixed-use developments and are generally characterised by retail, commercial, residential and tourist and visitor accommodation land uses.
26. Located to the east on the opposite side of the road along York Street are predominantly commercial office buildings with retail and food and drink uses located along the ground floor. Among these buildings are 22-26 York Street, a four to six storey commercial building listed partially as a state heritage item (22 York Street SLEP item no. 1976 and SHR no. 00647) and local heritage item (24-26 York Street SLEP item no. 1977), and 58-68 King Street, a 14-storey commercial building identified as a local heritage item known as the 'former "ACA" building including interiors' (SLEP item no. I1840).
27. Adjoining the development to the south-west, located at the intersection of King Street and Clarence Street, is 44 King Street, a six-storey commercial building comprising food and drink uses on the ground and basement floors and commercial offices on the floors above. The site is identified as a local heritage item known as 'former warehouse including interiors and cart dock' (SLEP item no. I1838).
28. To the south of the development on the opposite side of the road along King Street is the Grace Hotel containing food and drink uses at the ground floor and tourist and visitor accommodation and ancillary conference facilities on the floors above. The site is listed as an item of state significance known as the 'former "Grace Building" including interiors' (SLEP item no. I1990 and SHR no. 00712).
29. To the west on the opposite side of the road along Clarence Street are a mix of buildings including a mixed-use development containing the Skye Suites tourist and visitor accommodation, residential apartments and retail and food and drink uses at 161 Clarence Street and a commercial office building with restaurant use on the ground floor at 171 Clarence Street.
30. To the north-east of the site at 65-69 York Street is a local heritage listed commercial building known as the former "Asbestos House" containing food and drink uses at the ground floor and commercial offices above. The building is identified as a local heritage item (SLEP item no. I1985).
31. To the north-west at 100-102 Clarence Street is a multi-storey commercial development comprising retail uses on the basement and ground floors, and commercial office uses above. The building contains driveway access from York Street in which 71 York Street and 104-118 Clarence Street benefit from through and easement for access.
32. Figures 13 to 18 below illustrate uses surrounding the development site.



Figure 13: Existing commercial use to the east along York Street



Figure 14: Existing commercial use to the south-west at the corner of Clarence Street and King Street



Figure 15: The Grace Hotel, opposite to the south along King Street



Figure 16: Existing commercial uses opposite and to the west along Clarence Street



Figure 17: Asbestos House and driveway separating the subject development and the building to the north-east along York Street

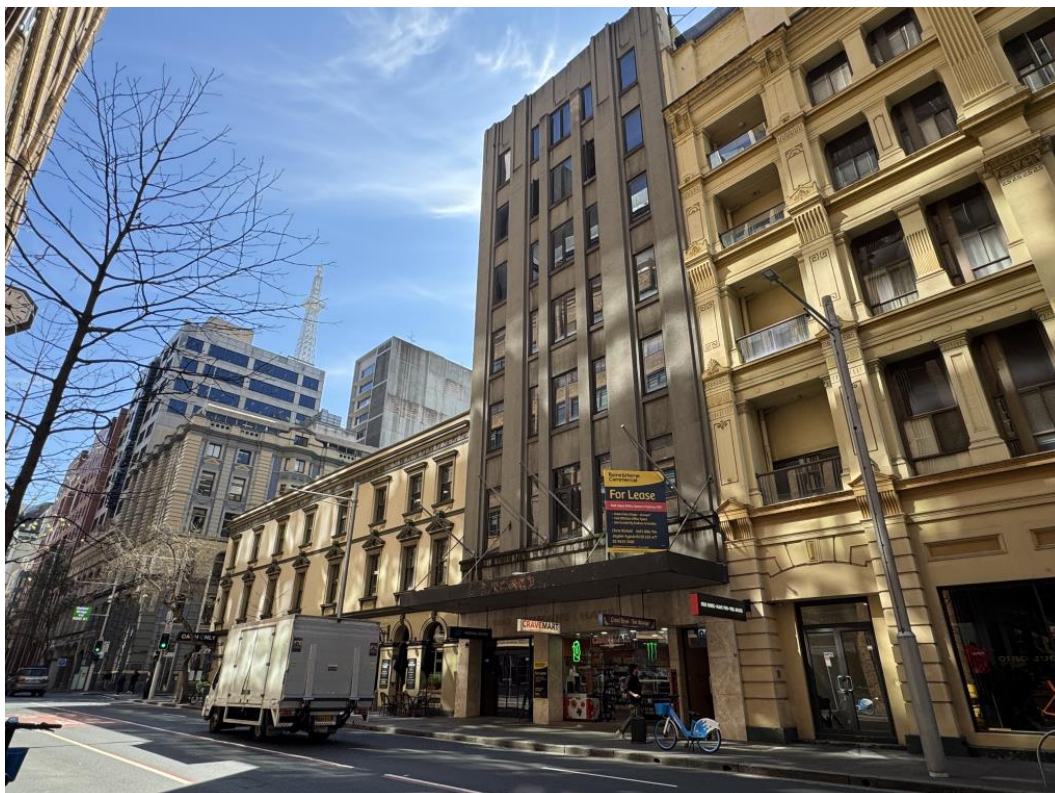


Figure 18: Adjoining commercial uses the north-west along Clarence Street

History Relevant to the Development Application

Development Applications

33. Applications that are relevant to the current proposal are provided below.

71 York Street

34. There are no relevant applications.

73 York Street

35. Development application **D/2021/1493** was granted consent on 14 March 2022 for the fitout and use of the lower ground floor as a small bar. The small bar has approved hours of operation between 12.00pm and 2.00am the following day.

75 York Street

36. Development application **D/1993/129** was granted consent on 21 May 1993 for the fitout and use of the basement, ground and first floors as a bar and restaurant.

37. Development application **D/1993/519** was granted consent on 23 November 1993 for alterations and additions to the premises including an additional sixth floor for the use as a caretaker's unit.

38. Development application **D/1996/513** was granted consent on 23 December 1997 to extend the trading hours of the hotel until 12.00 midnight Monday to Sunday.

39. Development application **D/1996/790** was granted consent on 5 March 1998 for the extension of the hotel use over levels 2, 3 and 4.

40. Development application **D/2005/2238** was granted consent on 31 March 2006 for the extension of the approved operating hours of the hotel between 7.00am and 4.00am the following day Monday to Saturday, and between 10.00am and 12.00 midnight on Sunday. The consent has been modified four times to continue the extended trading hours, most recently being granted consent under Modification E on 23 December 2020 for an additional trial period of 5 years.

41. Development application **D/2008/1329** was granted consent on 23 February 2009 to extend the bar use over levels 5 and 6.

42. Development application **D/2014/733** was granted consent on 26 June 2014 to change the use of the level 6 caretaker's unit to an office use ancillary to the hotel.

43. Development application **D/2015/1690** was granted consent on 23 December 2015 to formalise and update the operation of the premises' Plan of Management.

44. The development site has also been subject to development applications and footway applications to allow the extension of the bar use on the public footway along York Street and King Street.

45-52 King Street

45. Development application **D/2012/301** was granted consent on 17 July 2021 for internal and external alterations to the licensed premises, previous known as the York Hotel, then Trumps Tavern, on part of the ground floor and basement level. The consent was modified several times under modifications A to F, granting consent to internal reconfigurations, external signage, and hours of operation. Modification F was most recently approved on 3 December 2021 to allow hours of operation between 9.00am and 12.00 midnight Monday to Wednesday and 9.00am and 2.00am the following day Thursday to Sunday on a permanent basis.
46. Development application **D/2024/841** was granted consent on 5 December 2024 for alterations to the ground floor to change the use of the existing hair salon and the remaining front portion of the ground floor to a small lobby café with accompanying alterations to the ground floor façade.
47. Development application **D/2025/209** was granted consent on 22 May 2025 for internal alterations to the remainder of the ground floor area and basement for the continued use of the space as a food and drink premises and granted consent under D/2012/301 (as amended).

104-118 Clarence Street

48. There are no relevant applications.

Amendments

49. Following a preliminary assessment of the proposal by Council Officers, a request for additional information and amendments was sent to the applicant on 20 February 2025. The request sought clarification on the scope of works proposed in the application and a separation between architectural drawings depicting proposed works and concept reference drawings.
50. The request also sought further information on the heritage qualities of each building, requiring an updated or a new Conservation Management Plan (CMP) for each building and a clearer assessment of the impacts of the proposed works on each heritage item located within the development site.
51. Clarification was also sought on the management of loading, servicing and waste management of the entire development site and the proposed use of the driveway located to the north of the site in which 71 York Street and 104-118 Clarence Street benefit from an easement for access over.
52. A precinct-wide plan of management was also sought, requiring general management requirements for the precinct with individual plans of management to be lodged with subsequent detailed development applications for individual tenancies.
53. Concurrently, Heritage NSW also requested further information to satisfy the relevant requirements under the Heritage Act 1977. The request sought further information on the existing conditions of original fabric within each state heritage item and impacts of the development on these items. The request was incorporated into the request for further information issued by Council officers.

54. The applicant responded to the request on 22 May 2025, and submitted an amended application clarifying the scope of works, increasing the scope to additional works including the partial demolition of the rear of 73 York Street, the retention of part of the existing vehicle access from York Street into the basement of 71 York Street to accommodate a loading dock for loading, servicing and deliveries and the proposed reinstatement of the northern cartway at the north of 104-118 Clarence Street to provide additional vehicle access for loading and servicing.
55. The amended application sought to remove the proposed use of the easement over the northern driveway for any loading and servicing.
56. Additional information submitted with the amended application also included CMPs for 71, 73 and 75 York Street and Heritage Asset Action Plans for 46-52 King Street and 104-118 Clarence Street. A precinct-wide Plan of Management was also submitted.
57. On 11 June 2025, an additional request for further information was issued to the applicant requesting further amendments relating to waste management and waste storage area design. The request sought that waste storage areas be redesigned for more efficient storage and management processes and for additional storage space be allocated to each building. The request also sought minor updates to the Plan of Management.
58. On 23 June 2025 an updated Plan of Management was submitted that satisfactorily addressed Council's request.
59. On 29 July 2025, updated architectural drawings and supporting documentation was submitted to respond to Council's request. Whilst the amended design and waste management approach submitted was generally supported, further information was sought to confirm waste disposal pathways from each building to the centralised waste storage and loading areas was appropriate. Further information was submitted on 15 September 2025.
60. On 11 August 2025, General Terms of Approval were granted by the Heritage Council of NSW in which the Heritage Council Approvals Committee resolved to grant approval subject to no consent being granted for the following:
 - (a) Removal of the rear of 73 York Street
 - (b) Ground floor openings between 71 and 73 York Street and 46-52 King Street
 - (c) Removal of the c1929 fire stairs and large opening to 46-52 King Street
 - (d) Construction of new fire stairs within the c1920s section of 75 York Street
 - (e) Removal of remnant c1891 walls to the west of 75 York Street
 - (f) Removal of the existing lift within 75 York Street.
61. Minutes from the Heritage Council Approvals Committee meeting indicated that there was insufficient information to support various elements of the project, and any subsequent development application would need to contain significantly greater analysis of the existing heritage fabric in order to understand the scope of potential impacts on the heritage significance of the items.

62. This advice was discussed with the applicant and a request to amend the application to address the issues raised by the Heritage Council Approvals Committee was received by Council. The request was accepted and on 11 September 2025, a Statement of Heritage Impact Addendum was received by Council and issued to Heritage NSW. On 17 September 2025, amended architectural drawings that reflected the findings in the comprehensive heritage considerations were also submitted and an accompanying updated estimated development cost report was received and submitted to Heritage NSW for further consideration.
63. Updated General Terms of Approval were received on 2 October 2025 and are discussed in further detail throughout this assessment report.

Proposed Development

64. The subject development application seeks concept development (site specific DCP) consent pursuant to Section 4.22 of the Environmental Planning and Assessment Act 1979, for the use of the site as a hotel/pub comprising the following ancillary land uses:
 - (a) Food and drink premises
 - (b) Tourist and visitor accommodation
 - (c) Indoor recreation
 - (d) Office premises
65. The proposed concept use seeks consent for a maximum precinct capacity of 8,211 people allocated to the following uses:
 - (a) Food and drink premises: 6,805 people
 - (b) Back of house/loading: 29 people
 - (c) Tourist and visitor accommodation: 620 people
 - (d) Indoor recreation: 200 people
 - (e) Office: 557 people
66. The proposal also seeks consent for 24-hour operation for all internal areas and outdoor hours (ground level and rooftop terraces) between 10.00am and 12.00 midnight.
67. The application is also accompanied by precinct-wide heritage, BCA, acoustic, access, traffic, servicing and waste management strategies to guide future detailed development applications in addition to a precinct-wide plan of management for the licensed use.
68. In addition to the concept use, the application seeks consent for alterations to facilitate future development applications for the fitout and use of the site. Proposed works are described in detail below:

69. 71 York Street

- (a) Demolition of existing concrete topper over original vehicle ramp within basements 1 and 2, retention of original structure and provision of a new staircase above for access within the basement levels
- (b) Demolition of existing fire stairs
- (c) Reinstatement of original openings and creation of new openings in blind arches in basement levels between 71 York Street and 104-118 Clarence Street
- (d) Removal of one vehicle driveway ramp from York Street vehicle entry
- (e) Creation of openings within various blind arches between 71 York Street and 73 York Street
- (f) Demolition of non-original partitioning throughout the building and the construction of a new lift at the rear of the building extending above the roof to access the roof terrace of 104-118 Clarence Street
- (g) Demolition of part of the flooring at the rear of the building and the construction of new fire stairs
- (h) Construction of new external staircase within the existing northern service courtyard with openings for access from 71 York Street and 104-118 Clarence Street

70. 73 York Street

- (a) Demolition of rear wing storage rooms, lift, stair access from ground floor to basement and various internal partitioning
- (b) Demolition of fire stairs on levels 2, 3 and 4
- (c) Demolition of rear portion of the building, including rear façade on ground level and level 1 and flooring on levels 1 to 4 reducing the internal depth of the building from approximately 30m to approximately 17.5m
- (d) Retention of original rear façade from level 2 to level 4
- (e) Construction of a new rear glazed wall from level 1 to level 4
- (f) Creation of new ground floor central courtyard approximately 156sqm in size
- (g) Retention of existing timber roof trusses and construction of glazed roof over approximately 50% of new courtyard
- (h) Installation of a new lift and creation of a new opening to 75 York Street to access new fire stairs
- (i) Construction of new stair access from York Street to basement level and other stair access and openings between 71 York Street and 73 York Street

71. 75 York Street

- (a) Demolition of northern c1920s wall to create a new opening between 73 York Street and 75 York Street and the construction of new fire stairs, extending above the existing building to provide access to level 7 of 46-52 King Street
- (b) Demolition of internal partitions within the c1920s addition
- (c) Demolition of part of the roof above the c1920s addition and replacement with a new skylight
- (d) Creation of two openings on each floor between 75 York Street and 46-52 King Street
- (e) Construction of partitions to provide back of house areas on the ground floor

72. 46-52 King Street

- (a) Creation of openings on the ground floor to level 6 to provide ground floor stair access to the new central courtyard and new windows to the northern façade of the building
- (b) Demolition of internal partitions to facilitate the creation of openings to 75 York Street

73. 104-118 Clarence Street

- (a) Demolition of fire stairs and lift, including fire stairs from the basement to Clarence Street along the northern boundary wall of the building
- (b) Demolition of the rear wall separating 104-118 Clarence Street and 73 York Street at the ground floor and the construction of a new stacking door to allow access to the central courtyard
- (c) Demolition of various internal partitions on each floor
- (d) Creation of openings between 104-114 Clarence Street and 116-118 Clarence Street
- (e) Construction of new fire stairs and lifts extending to the rooftop terrace
- (f) Reinstatement of original cartway along the northern boundary to provide access to the existing northern service courtyard
- (g) Demolition of rooftop plant and other services
- (h) Creation of openings within the eastern boundary wall to allow access to new external staircase

74. Detailed drawings of the proposed development are provided in Attachment B, and selected drawings to illustrate the proposal generally are provided below.



Figure 19: Indicative east-west cross section through 104-118 Clarence Street and 73 York Street showing indicative uses



Figure 20: Proposed ground floor indicating openings to connect all buildings, reinstated northern carriageway and new central courtyard

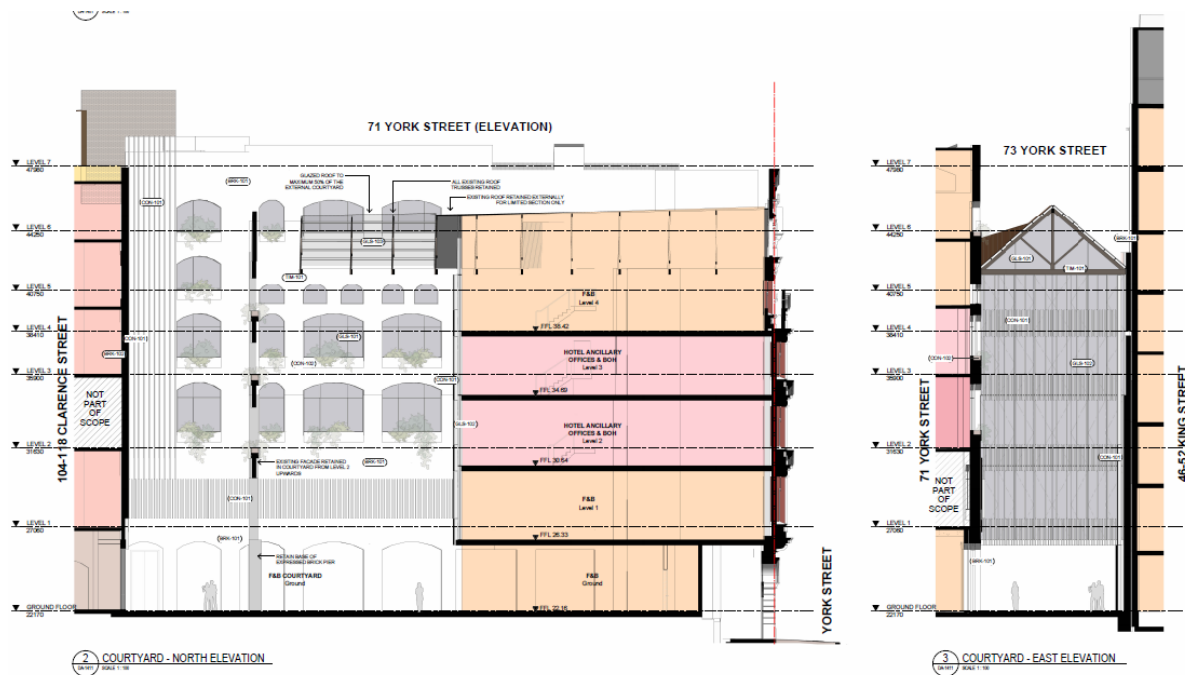


Figure 21: Proposed internal elevations of central courtyard

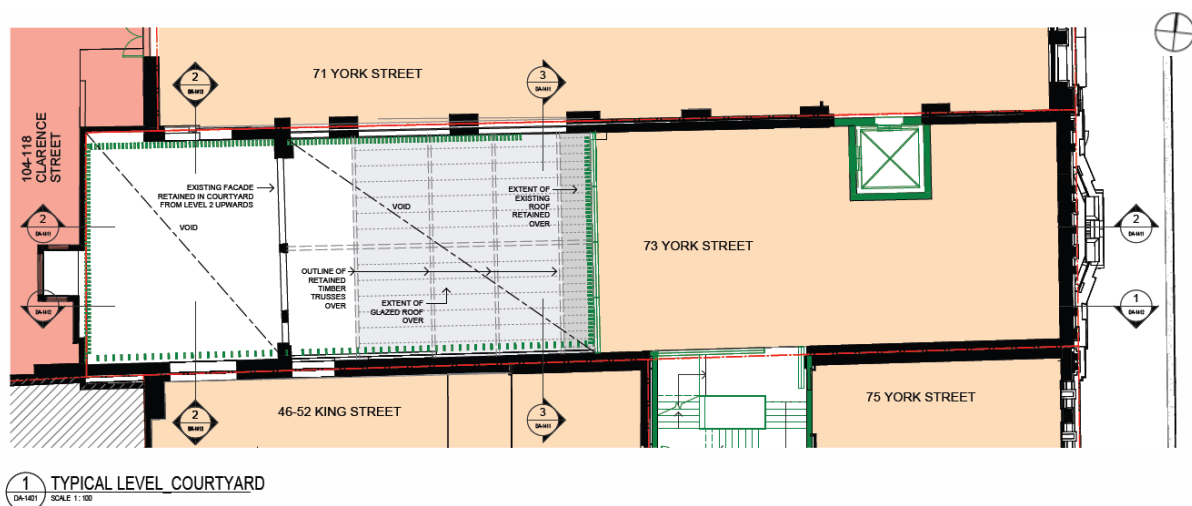


Figure 22: Detail showing extent of demolition within 73 York Street, retention of part of the rear facade and new glazed roof

Assessment

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

Heritage Act 1977

76. The subject application involves works to two items listed on the State Heritage Register under the Heritage Act 1977 including 73 York Street known as Hardware House (SHR no. 00580), also listed as the former Henley House on the SLEP 2012, and 75 York Street known as National House (SHR No. 00581).

77. The application has been accompanied by detailed Conservation Management Plans and Heritage Asset Action Plans in addition to a comprehensive Statement of Heritage Impact that considers the impacts of the proposed development on the significance of each heritage item.
78. As Integrated Development requiring approval under the Heritage Act 1977, a copy of the application was referred to the Heritage Council on 3 December 2024 in accordance with Clause 66 of the Environmental Planning and Assessment Regulation 2000.
79. On 13 January 2025, the Heritage NSW issued a request for further information which was incorporated into Council's request for further information as discussed above under the heading Amendments. An amended application was submitted to Council and notification was sent to Heritage NSW on 5 June 2025.
80. In correspondence dated 15 July 2025, the NSW Heritage Council was advised that the exhibition period had been completed, and 62 submissions were received.
81. On 11 August 2025, General Terms of Approval were granted by the Heritage Council of NSW in which the Heritage Council Approvals Committee resolved to grant approval subject to no consent being granted for the following:
 - (a) removal of the rear of 73 York Street
 - (b) ground floor openings between 71 and 73 York Street and 46-52 King Street
 - (c) removal of the c1929 fire stairs and large opening to 46-52 King Street
 - (d) construction of new fire stairs within the c1920s section of 75 York Street
 - (e) removal of remnant c1891 walls to the west of 75 York Street
 - (f) removal of the existing lift within 75 York Street
82. As discussed above, the General Terms of Approval were discussed with the applicant, and an amended application was submitted to Council to address concerns raised by the Heritage Council Approvals Committee.
83. In accordance with Section 38 of the Environmental Planning and Assessment Regulation 2021, a new request was sent to Heritage NSW for further consideration.
84. Updated General Terms of Approval were issued on 2 October 2025 subject to conditions which are included in the recommended conditions of consent in Attachment A and discussed further under the heading 'Discussion' below.

State Environmental Planning Policies

State Environmental Planning Policy (Resilience and Hazards) 2021 - Chapter 4 Remediation of Land

85. The aim of SEPP (Resilience and Hazards) 2021 - Chapter 4 Remediation of Land is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.

86. A Phase 1 Contamination Assessment Report was submitted with the application. The report assesses the potential or contamination at the site based on the historical and current land uses and provides an opinion on whether further investigations are required to assess the risk of harm from contamination and the suitability for the proposed land uses.
87. Given the long-term commercial uses across the precinct, low levels of background contamination are expected beneath and surrounding the site. These commercial activities are common sources of soil and groundwater contamination, including, but not limited to, petroleum hydrocarbons, chlorinated hydrocarbons, Polycyclic aromatic hydrocarbons (PAHs), heavy metals and Per- and poly-fluoro alkyl substances (PFAS). The assessment submitted with the application did not identify evidence that would suggest significant contamination is present beneath the site, which would preclude ongoing commercial and hotel accommodation uses.
88. Given that there will be no interaction between future workers or visitors to the site with underlying soil and groundwater, except for minor excavations to upgrade the elevator shafts, any potential contamination at the site is considered a low risk to human health and the environment.
89. As such, the submitted assessment report has determined that the Site is suitable for the proposal and ongoing commercial and hotel accommodation land use, concluding that further investigations to characterise potential contamination are not required, based on the proposal.
90. The following actions are recommended during the development of the site to mitigate risks from unexpected contamination if encountered when excavating the elevator shafts:
- (a) All construction works should be undertaken in accordance with relevant guidelines to ensure that identified hazardous materials (asbestos / lead-based paint) and other contaminants are not released into the environment;
 - (b) All excavation works should be undertaken in accordance with a Construction Environmental Management Plan (CEMP), adopting industry standard controls to mitigate risk to workers and the public from potential contamination. The CEMP should include an unexpected finds protocol to assess potential contamination if encountered; and
 - (c) Excavated soils requiring offsite disposal must be classified in accordance with EPA NSW waste classification guidelines Part 1: Classifying waste.
91. Council's Environmental Health Officer has reviewed the information provided and is satisfied that, subject to conditions, the site is suitable for the proposed use. As such, the application satisfied the relevant provisions of the SEPP.

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

92. 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.

93. The application has not been accompanied by any details for signage or a signage strategy. As the development site contains several heritage items and spans multiple street frontages, a condition of consent is recommended requiring a separate application be submitted for a signage strategy and the installation of signage.

State Environmental Planning Policy (Sustainable Buildings) 2022

94. The aims of this Policy are as follows—
- (a) to encourage the design and delivery of sustainable buildings,
 - (b) to ensure consistent assessment of the sustainability of buildings,
 - (c) to record accurate data about the sustainability of buildings, to enable improvements to be monitored,
 - (d) to monitor the embodied emissions of materials used in construction of buildings,
 - (e) to minimise the consumption of energy,
 - (f) to reduce greenhouse gas emissions,
 - (g) to minimise the consumption of mains-supplied potable water,
 - (h) to ensure good thermal performance of buildings.

Chapter 3 Standards for non-residential development

95. Chapter 3 of the SEPP applies to development, other than development for the purposes of residential accommodation, that involves: -
- (a) the erection of a new building, if the development has an estimated development cost of \$5 million or more, or
 - (b) alterations, enlargement or extension of an existing building, if the development has an estimated development cost of \$10 million or more.

Section 3.2 Development Consent for non-residential development

96. Section 3.2 Development consent for non-residential development provides that:
- (1) In deciding whether to grant development consent to non-residential development, the consent authority must consider whether the development is designed to enable the following—
 - (a) the minimisation of waste from associated demolition and construction, including by the choice and reuse of building materials,
 - (b) a reduction in peak demand for electricity, including through the use of energy efficient technology,
 - (c) a reduction in the reliance on artificial lighting and mechanical heating and cooling through passive design,
 - (d) the generation and storage of renewable energy,
 - (e) the metering and monitoring of energy consumption,

- (f) the minimisation of the consumption of potable water.
- (2) Development consent must not be granted to non-residential development unless the consent authority is satisfied the embodied emissions attributable to the development have been quantified.
97. With regard to the above matters, it is noted the subject application limits physical works to the demolition of internal walls and stairwells and the construction of new internal walls, doors, fire stairs and lift cores, loading dock, atrium and the reinstatement of an original cartway. The application seeks to adaptively reuse the existing building structures which in itself seeks to minimise demolition waste. Due to the limited scope of works in the subject application, many of the matters for consideration are not relevant and are to be addressed in the detailed development applications for future tenancy fitouts.
98. The application was accompanied by written evidence of the intention to incorporate energy efficient technologies in future fitouts including in kitchen and bar areas and lighting and ventilation.
99. Further, with regard to section (2) above the applicant has adequately quantified the embodied emissions attributable to the development. Section 35B of the Environmental Planning and Assessment Regulation determines the form in which embodied emissions are to be quantified. The embodied emissions attributable to the development have been appropriately quantified using the NABERS embodied energy form published on the NSW Planning Portal and certified by an appropriately qualified person as required by the regulations.

Section 3.3 Other Considerations for Large Commercial Development

100. Section 3.3 Other considerations for large commercial development applies to development defined as prescribed office premises, prescribed service apartments and prescribed hotel or motel accommodation.
101. Section 3.3 provides that:
- (1) In deciding whether to grant development consent to large commercial development, the consent authority must consider whether the development minimises the use of on-site fossil fuels, as part of the goal of achieving net zero emissions in New South Wales by 2050.
- (2) Development consent must not be granted to large commercial development unless the consent authority is satisfied the development is capable of achieving the standards for energy and water use specified in Schedule 3.
- (3) For the purposes of subsection (2), development is capable of achieving a standard specified in Schedule 3 if there is a NABERS commitment agreement in place to achieve the standard.
102. The above, to the extent it relates to energy use, does not apply to large commercial development, except serviced apartments, on land to which the following local environmental plans apply—
- (a) Sydney Local Environmental Plan 2012,
- (b) Sydney Local Environmental Plan (Green Square Town Centre) 2013,

(c) Sydney Local Environmental Plan (Green Square Town Centre—Stage 2) 2013.

103. The proposed development is subject to one of the above LEPs however, is not likely to result in hotel accommodation containing 100 guest rooms or more and thus is not defined as prescribed hotel or motel accommodation. See further discussion in the Sydney Local Environmental Plan 2012 table below.

State Environmental Planning Policy (Transport and Infrastructure) 2021

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

Division 15, Subdivision 2: Development in or adjacent to rail corridors and interim rail corridors

Clause 2.101– Development within or adjacent to interim rail corridor

105. The application is adjacent to the CBD Rail Link corridor and was subsequently referred to Transport for NSW (TfNSW) for concurrence. TfNSW rejected the request, noting in their advice that specialist input was not required as proposed excavation is minor in nature ($\leq 1.5\text{m}$ in depth).

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

Clause 2.122 – Traffic-generating development

106. The application is subject to Clause 2.122 of the SEPP as the development proposes a food and drink premises greater than 300sqm with a frontage to King Street, a regional classified road.
107. The application was referred to TfNSW who raised no objection to the proposal, subject to conditions included in Attachment A.

Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 6 Water Catchments

108. The development 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.
109. The development site is within the Sydney Harbour Catchment and eventually drains into Sydney Harbour. However, it is not located in the Foreshores Waterways Area or adjacent to a waterway and therefore, with the exception of the objective of improved water quality, the objectives of the SEPP are not applicable to the proposed development.

Local Environmental Plans

Sydney Local Environmental Plan 2012

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

Part 1 Preliminary

| Provision | Compliance | Comment |
|--|------------|--|
| 1.8A Savings provisions relating to development applications | Yes | <p>Amendments made to the SLEP 2012 by the SLEP 2012 (Amendment No 109) made on 30 May 2025 do not apply to the subject development application, in accordance with subclause (9)(a) of clause 1.8A of the SLEP 2012.</p> <p>These provisions relate to the amendments to the SLEP 2012 for dwelling retention, detailed in clause 7.36 of the SLEP 2012. The controls do not apply given this development application was made prior to the commencement of the plan.</p> |

Part 2 Permitted or prohibited development

| Provision | Compliance | Comment |
|--|------------|--|
| 2.3 Zone objectives and Land Use Table | Yes | The development site is located in the SP5 Metropolitan Centre zone. The proposed development is defined as food and drink premises, tourist and visitor accommodation and office premises, and are permissible with consent in the zone. The proposal generally meets the objectives of the zone. |

Part 4 Principal development standards

| Provision | Compliance | Comment |
|-------------------------|------------|---|
| 4.3 Height of buildings | Yes | <p>A maximum building height of 60m is permitted.</p> <p>A height of 30m is proposed.</p> <p>The proposed development complies with the maximum height of buildings development standard.</p> |
| 4.4 Floor space ratio | Yes | <p>A base floor space ratio of 8:1 or 19,368sqm is permitted.</p> <p>A floor space ratio of 5.7:1 or 13,724sqm is proposed.</p> |

| Provision | Compliance | Comment |
|-----------|------------|--|
| | | The proposed development complies with the maximum floor space ratio development standard. |

Part 5 Miscellaneous provisions

| Provision | Compliance | Comment |
|----------------------------|------------|--|
| 5.10 Heritage conservation | Yes | <p>The development site contains several items of local and state heritage significance.</p> <p>See further details under the heading 'Discussion'.</p> |
| 5.21 Flood planning | Yes | <p>The development site is not identified as being subject to flooding.</p> <p>Based on the City's Interim Floodplain Management Policy requirements of flood planning levels for developments outside the floodplain, building floor levels and/or all egress points must be 300mm above surrounding gutter invert levels. It is noted that some entry points to the building currently do not meet this, however, future detailed development applications are capable of meeting the floodplain requirements.</p> <p>As such, the application is considered to generally meet the requirements of this provision.</p> |

Part 6 Local provisions – height and floor space

| Provision | Compliance | Comment |
|--|------------|--|
| Division 1 Floor space in Central Sydney | | |
| 6.10 Heritage floor space | Yes | <p>71 York Street currently has an award for heritage floor space granted by Council in 1999. The heritage floor space grant was for a total of 4,205sqm and a Deed was executed and floor space transferred accordingly.</p> <p>A restrictive covenant is currently placed on title noting that the building may not be added to or altered if the works will</p> |

| Provision | Compliance | Comment |
|------------------------------|------------|--|
| | | <p>result in the floor space area on the building on the land will exceed 5,790sqm.</p> <p>The proposed works in the subject application will not exceed this restriction.</p> <p>The supporting documentation submitted with the application also noted that the Heritage Floor Space award is eligible for renewal in 2026 and the landowner will seek a new award for heritage floor space in the future.</p> |
| Division 4 Design excellence | | |
| 6.21C Design excellence | Yes | <p>The proposed development is of a high standard and uses materials and detailing which are compatible with the existing development along the street and will contribute positively to the character of the area.</p> <p>The development achieves or has provided appropriate strategies for future developments within the site to achieve the principle of ecologically sustainable development and has an acceptable environmental impact with regard to the amenity of the surrounding area and future occupants.</p> <p>The application also achieves a high standard of architectural design that retains or enhances the heritage significance of the individual heritage items located within the site. The works proposed, including upgrades to fire stairs, the creation of openings between buildings and the creation of a loading dock are located in areas of each building in which are of less heritage significance or are compatible with the build character of the existing buildings.</p> <p>Further, the proposed demolition of the rear of 73 York Street, whilst considered a loss of heritage fabric, retains the significant front portion of the building and provides opportunities for</p> |

| Provision | Compliance | Comment |
|-----------|------------|---|
| | | <p>interpretation with the retention of part of the rear façade and roof structure.</p> <p>Overall, the proposal is sympathetic to the heritage qualities of the site and demonstrates consistency with the development requirements for the York Street Special Character Area.</p> <p>The development therefore achieves design excellence.</p> |

Part 7 Local provisions – general

| Provision | Compliance | Comment |
|---|------------|---|
| Division 1 Car parking ancillary to other development | | |
| 7.6 Office premises and business premises 7.9 Other land uses | Yes | The proposed development does not seek consent for any car parking spaces and is consistent with the objectives of this provision. |
| Division 3 Affordable housing | | |
| 7.13 Contribution for purpose of affordable housing | Yes | <p>The development site is located in Central Sydney and is subject to the requirements of section 7.13.</p> <p>Refer to the discussion below under the heading Financial Contributions heading.</p> |
| Division 4 Miscellaneous | | |
| 7.14 Acid Sulfate Soils | Yes | The development site is located on land with class 5 Acid Sulfate Soils. The application does not propose works requiring the preparation of an Acid Sulfate Soils Management Plan. |
| 7.20 Development requiring or authorising preparation of a development control plan | Yes | <p>The area of the development site is greater than 1,500 square metres, which triggers the requirement for the preparation of a site-specific development control plan.</p> <p>Section 4.23 of the Environmental Planning and Assessment Act 1979 allows a concept approval to be lodged</p> |

| Provision | Compliance | Comment |
|---|------------|--|
| | | <p>in lieu of preparing a development control plan.</p> <p>The matters under Clause 7.20 (4) of the Sydney LEP 2012 are satisfied by the documentation submitted with the application and the recommended conditions.</p> <p>The proposal satisfactorily sets expectations for the future uses contained within the site, heritage conservation, ESD outcomes, acoustic impacts, activation of the ground level and interface with the public domain and demonstrating compliance with the objectives of the York Street Special Character Area.</p> |
| 7.33 Sustainability requirements for certain large commercial development | N/A | <p>The application notes that a future development application for hotel accommodation will likely contain less than 100 hotel guest rooms and does not meet the definition of 'prescribed hotel or motel accommodation'.</p> <p>As such, the sustainability requirements of this clause do not apply however, will also require to be addressed in any detailed development.</p> |
| 7.36 Dwelling retention | N/A | <p>As detailed above under clause 1.8A, the provisions for dwelling retention do not apply to the subject application as the development application was made prior to the commencement of the amended LEP.</p> |

Development Control Plans

Sydney Development Control Plan 2012

111. 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

112. The development site is located within the York Street Special Character Area including Clarence Street and Kent Street. The proposed development is in keeping with the unique character and the design principles of the Special Character Area. The proposal will support the existing urban character of the area as it will retain the existing heritage items. The majority of proposed alterations will be undertaken with the largely modified part of the buildings, will not be visible from the public domain or will be improving the existing facades or reinstating original features.
113. The heritage items, which includes former warehouses, hotels and commercial stores, will have their heritage significance retained and respected by ensuring the significant elements and fabric of each item are not compromised or adversely impacted.

Section 3 – General Provisions

| Provision | Compliance | Comment |
|---|------------|--|
| 3.2. Defining the Public Domain | | |
| 3.2.2 Addressing the street and public domain | Yes | <p>The application seeks to retain and enhances each heritage item's street frontage by removing redundant vehicle entries and reinstating original features, positively contributing to the streetscape.</p> <p>The application also provides improved access to the site or is capable of providing accessible entries into tenancies in future detailed applications.</p> |
| 3.2.3 Active frontages | Yes | The application seeks consent for active uses to occupy all ground floor and most basement and first floor areas within existing building, enhancing active frontages along York Street, King Street and Clarence Street. |
| 3.5 Urban Ecology | Yes | The proposed development does not involve the removal of any trees and will not have an adverse impact on the local urban ecology. |
| 3.6 Ecologically Sustainable Development | Yes | <p>As discussed above, the proposed works are limited to demolition, removal of partition walls and works to fire stairs and lifts, however, generally satisfy the objectives for ESD.</p> <p>The application notes the proposed development is not considered to constitute 'large commercial development' for the purposes of Clause 7.33 of the SLEP 2012 and therefore the</p> |

| Provision | Compliance | Comment |
|---|------------|--|
| | | <p>energy performance standards and use of renewable energy generated on-site are not considered to be applicable to the proposed development.</p> <p>Notwithstanding, the Applicant is committed to ensuring the following measures are adopted in the future redevelopment of the precinct:</p> <ul style="list-style-type: none"> • New water fittings and fixtures with the highest Water Efficiency Labelling Scheme (WELS) star rating available at the time of development; • Connection to dual reticulation system for permitted non-potable uses (if available); • Metering and monitoring of energy consumption; and • Efforts will be made to utilise recycled materials and reduce the amount of material used in the construction of individual fit outs. <p>In addition to the above, a condition of consent is recommended requiring the submission of a schedule of materials to be salvaged and reused within the development, to further ensure the reduction of waste going into landfill.</p> |
| 3.9 Heritage | Yes | <p>The application seeks consent to carry out works within buildings recognised as local and state heritage items.</p> <p>See further details under the heading 'Discussion'.</p> |
| 3.10 Significant Architectural Building Types | Yes | <p>The proposal relates to warehouse buildings that are older than 50 years old.</p> <p>Refer to the 'Discussion' section below.</p> |

| Provision | Compliance | Comment |
|---|----------------|--|
| 3.11 Transport and Parking | | |
| 3.11.1 Managing transport demand | Yes | <p>The proposal comprises a mixed-use development including a non-residential development exceeding 1,000 square metres of GFA. As such, it generates a requirement for a Transport Impact Study, Green Travel Plan and Transport Access Guide under the relevant provisions of Section 3.11.1 of the Sydney DCP 2012.</p> <p>A Traffic Impact Assessment report has been submitted with the application in accordance with these requirements, which has been reviewed by Transport for New South Wales and the City's Access and Transport Unit.</p> <p>The latter has advised that it is acceptable with regard to the controls in Section 3.11.1 of the Sydney DCP 2012.</p> <p>Conditions are recommended in Attachment A to ensure detailed development applications are appropriately accompanied by a Green Travel Plan or Transport Access Guide for the development, particularly for any hotel use.</p> |
| 3.11.3 Bike parking and associated facilities | Able to comply | <p>Appropriate conditions of consent are recommended and included in Attachment A to this report to ensure that adequate bicycle parking and end of journey facilities are provided as part of any future detailed design development application.</p> |
| 3.11.6 Service vehicle parking | Yes | <p>Three service vehicle spaces, including one SRV bay, are proposed within the site. The amended proposal also includes the reinstatement of the western cartway from Clarence Street that provides additional loading space to service the site.</p> <p>Generally, the proposed site access and service vehicle parking availability within the development site is considered acceptable.</p> |

| Provision | Compliance | Comment |
|--|------------|--|
| 3.11.10 Vehicle access for developments greater than 1000sqm GFA | Yes | <p>The application proposes two vehicle entry points to the development site; one from an existing vehicle entry point on York Street and a secondary entry point through the reinstated cartway along Clarence Street.</p> <p>Both access points are located at the furthest point from their respective street intersections and are acceptable.</p> |
| 3.11.11 Vehicle access and footpaths | Yes | <p>The proposed vehicle access points are considered acceptable.</p> <p>Due to heritage constraints the reinstated cartway will require service vehicles to perform a reverse-in, forward-out manoeuvre. Whilst this is not a preferred access option, appropriate safety measures may be employed such as a traffic spotter to ensure pedestrian safety is maintained.</p> <p>All safety measures are to be detailed in a comprehensive traffic management strategy and is included as a condition of consent.</p> |
| 3.11.13 Design and location of waste collection points and loading areas | Yes | <p>The application proposes a waste collection strategy that includes a mixture of kerbside collection and on-site collection.</p> <p>The application proposes a new large loading dock and waste storage area that is able to cater for a larger portion of waste generated by the site. Small waste collection vehicles will also be able to access the site for on-site collection.</p> <p>The design and location of waste collection within the site is acceptable.</p> <p>See further details regarding waste management under the heading 'Discussion'.</p> |
| 3.12 Accessible Design | Yes | <p>The site is generally capable of providing accessible entry at several entry points along the York Street, King Street and Clarence Street frontages of the site.</p> <p>The site is also capable of providing accessible amenities for visitors</p> |

| Provision | Compliance | Comment |
|--|------------|---|
| | | including sanitary facilities within each food and drink tenancy in addition to providing accessible hotel rooms, designed to comply with the relevant Australian Standards. |
| 3.13 Social and Environmental Responsibilities | Yes | <p>A Social Impact Assessment (SIA) has been submitted with the application. The SIA assesses the potential social impacts that may arise from the proposal during construction and operational phases and subsequently recommends appropriate social mitigation and benefits optimisation measures.</p> <p>The SIA concludes that with the mitigation measures (for the subsequent detailed stages of the project), the proposal will likely have a positive impact. Mitigation measures include the following:</p> <ul style="list-style-type: none"> • Preparation of venue-specific management plans to support the precinct-wide plan of management • Offering live music programming, diversifying the offering of entertainment within the site • Providing harm reduction training to venue management staff • Implementing sound treatment measures recommended in the acoustic report • Reduce hours of operation in outdoor areas <p>The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.</p> |
| 3.14 Waste | Yes | The application proposes a new mixed-use development and has considered waste management strategies for future uses within this concept development application, including the provision of a |

| Provision | Compliance | Comment |
|------------------------------------|------------|--|
| | | large waste storage area located adjacent to the proposed loading dock. See further details under the heading 'Discussion'. |
| 3.15 Late Night Trading Management | Yes | The proposed concept development seeks consent for in-principle land uses for hotel/pub use, food and drink tenancies and tourist and visitor accommodation. See further details under the heading 'Discussion'. |
| 3.16 Signage and Advertising | N/A | No signage is proposed as part of this application. A condition is imposed to require separate consent to be obtained for a signage strategy and the installation of any signage. |

4.2 Residential Flat, Non-Residential and Mixed-Use Developments

| Provision | Compliance | Comment |
|--|--------------------|---|
| 4.2.3 Amenity 4.2.3.3 Internal common areas | Yes | The design of the building at 104-118 Clarence Street is capable of providing separate corridor space to the remaining residential apartment and will not decrease amenity to corridor spaces. Final design details and compliance with this section of the SDCP 2012 must be addressed in the relevant detailed development applications. |
| 4.2.3.7 Private open space and balconies | Yes | The remaining residential apartment currently does not have any private open space. The proposed application does not impact the access to natural light or ventilation. |
| 4.2.3.8 Common open space | No, but acceptable | The application indicates communal open space at the existing rooftop of 104-118 Clarence Street will be removed and converted to hotel uses. Whilst this reduces overall amenity to the remaining residential unit located within the building, the building will only consist of a single residential use and |

| Provision | Compliance | Comment |
|---------------------------|------------|--|
| | | common open space is not deemed necessary. As noted above, final design details and compliance with residential amenity requirements must be addressed in the relevant detailed development application. |
| 4.2.3.9 Ventilation | Yes | The remaining residential apartment is currently single aspect. The proposed development does not reduce any access to natural ventilation. |
| 4.2.3.10 Outlook | Yes | The application improves outlook from the residential apartment as a result of the demolished rear of 73 York Street. The creation of a larger internal courtyard will improve outlook. |
| 4.2.3.11 Acoustic Privacy | Yes | An acoustic report submitted with the application satisfactorily addresses acoustic impacts to surrounding residential uses and proposes suitable mitigation measures to manage these impacts. |

4.4 Other Development Types and Uses

4.4.8 Visitor accommodation

114. The application seeks consent for the use of a hotel within the site. The application, however, is not seeking formal consent for the fitout and use for the hotel, which will be sought in a separate detailed development application. Whilst the site is capable of providing a hotel use consistent with the objectives and relevant provisions for visitor accommodation in Section 4.4.8 of the Sydney Development Control Plan 2012 (SDCP 2012), any separate development application must demonstrate compliance with the relevant controls.

Section 5 – Specific Areas

| Provision | Compliance | Comment |
|--|------------|--|
| 5.1.3 Heritage items, warehouses and special character areas | Yes | The application proposes works to heritage items and is considered to retain or enhance the heritage significance of each building. See further details under the heading 'Discussion'. |

| Provision | Compliance | Comment |
|--------------------------|------------|--|
| | | |
| 5.1.4 Building exteriors | Yes | The proposed retention of the heritage facades within each building positively contributes to the streetscape and enhances the York Street Special Character Area. |

Discussion

Concept Development Application

115. The subject development application seeks concept development (site specific DCP) consent pursuant to Section 4.22 of the Environmental Planning and Assessment Act 1979, for the use of the site as a hotel/pub comprising the following ancillary land uses:
- (a) food and drink premises
 - (b) tourist and visitor accommodation
 - (c) indoor recreation (hotel gym and wellness)
 - (d) office premises
116. The proposed concept use seeks consent for a maximum precinct capacity of 8,211 people allocated to the following uses:
- (a) food and drink premises: 6,805 people
 - (b) back of house/loading: 29 people
 - (c) tourist and visitor accommodation: 620 people
 - (d) indoor recreation: 200 people
 - (e) office: 557 people
117. The proposal also seeks consent for 24-hour operation for all internal areas and outdoor hours (ground level and rooftop terraces) between 10.00am and 12.00 midnight.
118. In addition, the application seeks consent for works, predominantly relating to fire stair and lift upgrade works to facilitate the future uses.

119. The application has been accompanied by several supporting strategies to guide future development to ensure the orderly future development of the precinct. Strategies include the following:
- (a) Traffic and Servicing Strategy - outlining expected future vehicle movements for deliveries, servicing and waste. The strategy nominates the number of vehicle movements and recommended times for deliveries to ensure impacts on the local road network and the amenity of surrounding developments are managed adequately. Subject to minor amendments including addressing the share of vehicle movements through the reinstated cartway to 104-118 Clarence Street and related safety mitigation measures, the Strategy demonstrates the proposed use is suitable for the development site and the environmental impacts are acceptable.
 - (b) Waste Management Strategy - assessing the proposed uses and nominates waste generation rates in accordance with those uses and expected frequency of waste pick-up. Waste management is discussed in further detail in the section below.
 - (c) Preliminary Acoustic Assessment - addressing potential noise impacts on nearby sensitive receivers including hotel and residential uses. The assessment considered the impacts of noise from the proposed hotel, food and drink, gym, outdoor terrace activities and building services and recommended mitigation measures to ensure noise being generated from the development will have an acceptable impact. Mitigation measures include the installation of glass screens on rooftop terraces, installation of vibration isolation in entertainment/club tenancies and upgraded ventilation infrastructure. Mitigation measures must be implemented in detailed applications.
 - (d) Statement of Heritage Impact, Conservation Management Plans and Heritage Asset Action Plans - consider the heritage values of the existing buildings, ranking the significance of built elements and outlines a set of guiding principles that should be considered for any future works. The Statement of Heritage impact also assesses the impact of the proposed works on the significance of the heritage items.
 - (e) Precinct-wide operational plan of management - sets out guiding principles for the management of the precinct including the responsible service of alcohol, gaming management, patron management, entertainment, noise mitigation measures, complaints handling and security.
120. The above listed strategies and assessment reports demonstrate the development site is capable of operating a large-scale food and drink, entertainment and visitor accommodation precinct. It is recommended that conditions of consent require any future development applications associated with the approved concept use be in accordance with the recommendations of the relevant strategies and assessments.
121. Further, as the subject application does not seek consent for any specific fitout for any tenancy, a condition of consent is recommended prohibiting the commencement of any use approved in the consent prior to the issue of an occupation certificate following a detailed development application (or complying development where relevant) for the fitout and specific use of a building or individual tenancy.

Hours of Operation

122. Consent is sought for 24-hour operation of the site. Section 3.15.4 of the SDCP 2012 states licenced premises proposing late night trading hours of operation are to be limited in time to enable Council to assess the ongoing management performance of a premise and its impacts on neighbourhood amenity.
123. The proposed uses and license constitute a Category A premises located in the Late Night Management trading area. The proposed hours of operation for the tenancies on site are as follows:
 - (a) Indoor - 24-hours
 - (b) Outdoor - 10.00am to 12.00 midnight
124. The SDCP 2012 recommends base hours for Category A premises located within a Late Night Management trading area of 6.00am and 12.00 midnight for indoor areas and 9.00am and 10.00pm for outdoor areas and allows extended 24-hour trading for internal areas and outdoor trading until 1.00am on a trial basis.
125. Section 3.15.4(8) of the SDCP 2012 recommends extended trading to be granted up to three additional hours with any further additional hours of operation to be considered after the successful completion of the initial trial period. The application seeks an additional 6 hours of extended trading for indoor areas between 12.00 midnight and 6am.
126. Whilst not strictly complying with section 3.15.4(8) of the SDCP 2012, an initial trial period to allow 24-hour trading is supported for the following reasons:
 - (a) The precinct is located within Central Sydney, adjacent to or within close proximity to several other existing and approved late night venues, including venues offering live music and entertainment.
 - (b) The application has satisfactorily demonstrated that acoustic impacts to surrounding developments, including sensitive uses, can be mitigated through the implementation of recommendations within the submitted acoustic report.
 - (c) The submitted architectural drawings indicate a large portion of the development will occupy hotel accommodation, back of house, or office uses which are generally not considered high-impact uses.
 - (d) The application indicates the precinct will include diverse offerings including restaurant, club, and live music venues.
 - (e) Due to the nature of the range of uses proposed, it is likely that the dispersal of patrons at closing time will not lead to significant impacts and will more likely result in a staggered dispersal.
 - (f) The development site is likely to offer a range of uses that will operate during daytime and nighttime hours, providing street activation throughout the whole day, rather than just at nighttime.

- (g) The application has been accompanied by a Plan of Management that satisfactorily sets out the general requirements for precinct management. Future detailed DAs are also to be accompanied by venue-specific management plans that will provide comprehensive management requirements based on the nature of the venue use.
 - (h) The existing licensed premises located within the development site known as Hotel CBD currently has approved hours of operation between 7.00am and 4.00am the following day. A search of Council records indicates the premises has been operating at these hours since 2006 and has generally shown good management, with only one noise complaint being received since 2011.
 - (i) The development is in an area serviced very well by a diverse range of transport options including bus, metro, rail and light rail services in addition to taxi and rideshare options, private vehicle use and bicycle infrastructure.
 - (j) The submitted plan of management provides a comprehensive overview of patron behaviour management and security requirements to ensure impacts to the public domain and surrounding developments are reduced as much as possible.
127. Based on the above review of the matters for consideration noted in section 3.16.3 of the SDCP 2012, it is considered appropriate to grant an initial trial period for 24-hour indoor trading and outdoor trading between 10.00pm and 12.00midnight. The application has successfully demonstrated the proposed uses will contribute to the late-night economy within Central Sydney, will provide a diverse range of uses that contribute to an active street along York Street, King Street and Clarence Street and provide the opportunity for live music and entertainment and can manage potential adverse impacts through the implementation of noise mitigation measures and appropriate management measures through a detailed plan of management.
128. Generally, the application is considered to satisfy the objectives of section 3.15 of the SDCP 2012 and the proposed hours of operation are supported. The site is considered an appropriate location for late night uses and is likely to further support the future special entertainment precinct likely to be located within Central Sydney.
129. The application was also discussed with Council's Licensed Premises and Late Night Trading Unit who raised no objection to the proposal, subject to conditions.

Waste Management and Servicing

130. The application seeks consent for the construction of a central loading dock and waste storage area in which the precinct will rely on for most deliveries, servicing and waste management. The application submitted a Waste Management Plan that provides details on the waste storage area located within basement 1 of 71 York Street and notes that each individual detailed development application must also consider waste and provide appropriate additional waste storage areas within the individual tenancies or larger building should they be required.
131. Three existing buildings currently have kerbside collection including 104-118 Clarence Street, 75 York Street and 46-52 King Street. Of these sites, 104-118 Clarence Street is identified as being a site that will change use from residential to hotel, intensifying the use and likely increasing waste generation. Additionally, food and drink uses within 46-52 King Street are likely to increase and result in increased waste generation rates.

132. In accordance with the objectives and provisions of Section 3.14 of the SDCP 2012 and the Guidelines for Waste Management in New Developments, the future development applications must ensure waste storage and collection minimise disruptions to surrounding developments and the local road networks. Whilst kerbside collections are appropriate for the existing food and drink uses contained within 46-52 King Street and 75 York Street, subsequent development applications will be required to address waste management procedures including any additional storage space required in each tenancy and waste collection practices that will not impact on the local road network or surrounding developments, particularly in relation to acoustic impacts.
133. Further, the application proposes a single loading space to cater for the majority of site servicing and waste collection. While the fitouts of each individual tenancy will be sought under separate detailed development applications, the waste storage areas and loading spaces are proposed in the subject application. It is recommended that the loading and waste storage space be delivered prior to the issue of an occupation certificate for the first detailed development application for the fitout and use of an individual tenancy. A condition of consent is recommended to this effect, unless an appropriate interim site servicing management strategy is approved by Council separately.

Heritage Conservation

134. The development is subject to a number of considerations relating to heritage conservation, particularly the provisions of the Heritage Act 1977, the SLEP 2012 and SDCP 2012. Consideration must be given to the impact of the proposal on heritage fabric within the site and conservation opportunities that future developments may incorporate in a detailed development application.
135. The site contains the following heritage items:
- (a) 71 York Street – local heritage item known as the 'former "Gardiner House" including interiors' (SLEP 2012 item no. I1987)
 - (b) 73 York Street – state heritage item known as the 'former "Henley House" including interiors' (SLEP 2012 item no. I1988). The site is also referred to as 'Hardware House' in the State Heritage Register (SHR no. 00580)
 - (c) 75 York Street – state heritage item known as the 'former "National House" including interiors' (SLEP 2012 item no. 1989 and SHR no. 00581)
 - (d) 46-52 King Street – local heritage item known as the 'former York Hotel façade' (SLEP 2012 item no. I1839)
 - (e) 104-118 Clarence Street - the 'former warehouse "Gardiner & Co." including interiors' (SLEP 2012 item no. I1714)
136. The development site is also located within close proximity to a number of heritage items of both local and state significance including 22-26 York Street, (22 York Street SLEP item no. 1976 and SHR no. 00647 and 24-26 York Street SLEP item no. 1977), 58-68 King Street (SLEP item no. I1840), 44 King Street (SLEP item no. I1838), 77-79 York Street (SLEP item no. I1990 and SHR no. 00712) and 65-69 York Street (SLEP item no. I1985).

Conservation management plans and heritage asset action plans

137. In accordance with section 5.10(6) of the SLEP 2012 and section 3.9.2 of the SDCP 2012, conservation management plans (CMPs) were prepared for the buildings located at 71, 73 and 75 York Street and heritage asset action plans (HAAPs) were prepared for 46-52 King Street and 104-118 Clarence Street. The documents outline the significance of each heritage item and opportunities and limits required to be considered in the preparation of any future development application.
138. The CMPs and HAAPs adequately address the heritage qualities of each building and identify appropriate uses for each site and areas in which works may be carried out. Overall, the documents are considered to set out clear guiding principles for future developments. Council's Heritage Specialist noted that the documents are satisfactory for the subject application but note further addendums to the documents may be required in future detailed development applications.

Impact of proposed change of use and works on heritage items

139. The application seeks consent for the use of the buildings for hotel, food and drink and ancillary office uses. Works to all buildings are also proposed including demolition of fire stairs, construction of new fire stairs, new lift cores, the reinstatement of the cartway to 104-118 Clarence Street and partial demolition of the rear of 73 York Street.
140. Generally, no objection is proposed regarding the change of use. Food and drink premises, hotel accommodation, office spaces and indoor recreation uses are not uncommon for the adaptive reuse of traditional warehouse buildings. CMPs and HAAPs as discussed above have been prepared and will provide guidance to the proposed uses and future fitout works. Further, while some conflicts between heritage conservation and the regulation compliance works are expected for the new uses, overall the fabric and features identified to have exceptional or high significance is capable of being retained. The physical works enabling the change of use, as shown on the architectural plans are also considered acceptable.
141. Overall, the proposed use will enable more open public access to these heritage items, and their heritage significance can be experienced and celebrated more than previous uses.
142. In regard to the proposed works, the majority of works will have a neutral or positive impact on the heritage significance of the site, whilst works that will result in an adverse heritage impact are specific to the demolition of the rear of 73 York Street.
143. Works such as creating new openings between buildings are located between structural masonry piers or within blind arches on boundary walls. Opening blind arches to connect two neighbouring warehouses was common practice in the past and is not considered to have a significant impact on the significance of fabric or spatial quality. Other works such as the construction of new lifts and stairwells do not appear to affect original timber beams, brick walls, cast iron columns or other significant internal features. Further, the removal of high or exceptional significance-rated fabric is reduced as much as possible and where appropriate, can be reused on-site.

144. The proposed demolition of the rear of 73 York Street proposes the removal of approximately 4 structural bays within the warehouse building and fabric rating from little to exceptional significance. The amended application reduces the scope of demolition, with the retention of the rear wall from Level 2, including the brick gable and roof trusses. Generally, it is considered the demolition of the flooring of the rear of the building, whilst resulting in the removal of some moderate to high significance-rated fabric, allows for appropriate interpretation of the original scale of the building whilst facilitating the future use. On balance, the loss of significant fabric is considered acceptable.
145. To ensure works are appropriately detailed and cause as little impact to retained fabric as possible, the following additional detailed documentation is required prior to the issue of a Construction Certificate:
- (a) Detailed drawings of reinstated cartway and façade works to 104-118 Clarence Street
 - (b) Detailed drawings of 75 York Street façade and removed vehicle entryway
 - (c) Structural reports to clarify structural stability of 73 York Street and demolished rear of building
 - (d) Detailed drawings of typical new openings between each building
 - (e) Physical materials and samples board of all new external works including external within the northern service courtyard and lift and stair extensions to 75 York Street and 104-118 Clarence Street

Impact on surrounding heritage items and local character

146. As discussed above, the site is in close proximity to several heritage items of local and state significance. The site also falls within the York Street Special Character Area including Clarence Street and Kent Street as per section 2.1.1 of the SDCP 2012.
147. The development site contains buildings originally built as warehouses and hotels, both of which are described as significant buildings and use types in the locality due to its proximity between Darling Harbour and the City Markets. Other surrounding buildings of heritage significance include other warehouse buildings and hotels of exceptional quality, in addition to other heritage items built after the construction of the Sydney Harbour Bridge, signifying York Street's role as a new major arterial road.
148. The application proposes works predominantly to the internal areas of each building and includes the upgrade of fire egress stairs, relocation of lifts and creation of openings to provide connections to neighbouring buildings within the precinct. External works are generally limited to the reinstatement of the original cartway within 104-118 Clarence Street, the removal of one vehicle entry ramp to 71 York Street, and some stair and lift works above the existing roof heights of 71 York Street, 75 York Street, and 104-118 Clarence Street.

149. On balance, the proposed development is seen to strengthen the heritage significance of each heritage item located within the precinct and have a positive contribution to the Special Character Area. The proposal seeks to reinstate or restore original façade features to warehouses, while stair and lift works are generally set back from the street at a distance that cannot be viewed from the public domain. Overall, the application is considered to have a positive impact to the streetscape and is consistent with the locality statement and supporting general objectives of the York Street Special Character Area.

Heritage NSW Correspondence

150. The site includes two buildings listed as State heritage items under the Heritage Act 1977 and has been nominated as Integrated Development, requiring General Terms of Approval issued by the NSW Heritage Council or their delegate. As discussed above, the Heritage Council Approvals Committee issued General Terms of Approval on 11 August 2025 granting general consent to the development subject to no consent being granted for various demolitions works of significant heritage fabric.
151. Amended plans were submitted to Heritage NSW on 17 September 2025 and updated General Terms of Approval were issued on 2 October 2025. The terms of approval granted consent to the amended proposed works except the creation of openings from 73 York Street to 71 York Street and 46-52 King Street that conflict with the original western brick façade (see Figure 22 below).



Figure 23: Excerpt of Ground Floor demolition plan. Original rear wall of 73 York Street outlined in green.

152. In addition to the above, the General Terms of Approval require the submission of structural certification of 73 York Street demonstrating the proposed openings and demolition works will maintain the structural integrity of the building, and various details drawings of all building alterations to 73 and 75 York Street.
153. The General Terms of Approval have been included in Attachment A.

154. Generally, the proposed development is considered to satisfy the objectives and relevant provisions of section 5.10 of the SLEP 2012 in that the proposal enhances the significance of the heritage items contained within the site by reinstating original features, concentrating new works within later, heavily modified or less significant areas of each building, and establishes guiding principles for future developments through the preparation of a conservation management plan or a heritage asset action plan.
155. The application adequately addresses the heritage and streetscape provisions at a concept stage and meets the matters for consideration as to whether the development exhibits design excellence in clause 6.21C(2) of the SLEP 2012. The application also satisfies the character statement and supporting principles of the York Street Special Character Area including Clarence Street and Kent Street as per section 2.1.1 of the SDCP 2012 and discussed in the Sydney Development Control Plan 2012 section above.
156. Overall, the proposed development meets the objectives in Section 3.9 and Sections 3.10 and 5.1.3 of the SDCP 2012 in that the proposed development adequately addresses the heritage constraints of the site and is capable of providing a future development that enhances the significance of surrounding heritage items and special character areas and the public domain.
157. The submitted Statement of Heritage Impact submitted with the application is considered satisfactory in support of the works proposed in the subject application and the conservation management plans and heritage asset action plans prepared outline appropriate conservation guidelines that must be considered in the preparation of future detailed development applications.

Access (easements)

158. The proposal comprises five separate buildings that are proposed to operate as a single food and drink, entertainment, and hotel precinct. The intention of the precinct is to provide openings between adjoining buildings to consolidate fire egress and accessible entries in addition to allowing staff and guests to move between tenancies. Further, the application proposes a single waste storage area and loading dock to facilitate waste management and site servicing to the whole precinct. The applicant has not indicated or elected to consolidate the lots as all buildings would be considered to be higher than 25m triggering more stringent stair pressurisation requirements under the NCC which would have potential negative impacts on all the heritage listed buildings. As such, it is recommended that easements for access across all sites to allow access to fire egress points and the centralised waste storage and loading dock be prepared.
159. In addition to the easements required to be created for access, part of the development site also benefits from an existing easement for access over a driveway located to the north that falls within the boundary of 100-102 Clarence Street. Whilst the amended application does not seek to use this driveway for the purpose of deliveries or servicing, the easement has not been extinguished and all parcels of land that benefit from the easement still have a right to use it.
160. To reduce the likelihood of the use of the easement by general servicing vehicles and to stop through-traffic from York Street to Clarence Street via the reinstated cartway, a condition of consent is recommended to include a removable bollard within the northern service courtyard. The bollard allows the continued use of the easement for relevant parties however reduces unnecessary and unapproved use of the driveway like through-traffic for public use.

Consultation

Internal Referrals

161. 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;
- (e) Public Domain Unit;
- (f) Safe City Unit;
- (g) Surveyors;
- (h) Transport and Access Unit;
- (i) Waste Management Unit.

162. 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

Sydney Water

163. Pursuant to Section 78 of the Sydney Water Act 1994, the application was referred to Sydney Water for comment.
164. A response was received raising no objections to the proposed development, subject to conditions.

NSW Heritage Council

165. Pursuant to the Heritage Act 1977, the application was referred to NSW Heritage Council on 3 December 2024 for concurrence.
166. Copies of public submissions made to the City of Sydney during the notification period were forwarded to the NSW Heritage Council on 15 July 2025.
167. General Terms of Approval were issued by the NSW Heritage Council Approvals Committee on 11 August 2025 and have been included in the schedules within the recommended conditions of consent.
168. Amended plans were submitted to Heritage NSW on 15 September 2025 for further review.
169. Amended General Terms of Approval were issued under delegation of the NSW Heritage Council on 2 October.

Transport for NSW

170. Pursuant to Section 2.122 of the SEPP (Transport and infrastructure) 2021, the application was referred to Transport for NSW (TfNSW) for comment.
171. Comments were received on 4 December 2024. Conditions of consent were recommended which are included in the Notice of Determination.

Advertising and Notification

172. In accordance with the City of Sydney Community Participation Plan 2022, the proposed development was notified and advertised for a period of 30 days between 19 November 2024 and 18 December 2024. A total of 683 properties were notified and 30 submissions were received.
173. The amended application was renotified to the public for a period of 30 days between 12 June 2025 and 11 July 2025. A total of 681 properties were notified and 32 additional submissions were received.
174. In total, 62 submissions were received from 41 individual submitters. Of all submissions received, two submissions were in support of the proposal and 60 were in objection.
175. Submissions of support noted the need for more venues that contribute to the 24-hour economy of Central Sydney and the support for investment into the social life of the city.
176. Objections received raised the following issues:

| Issue | Response |
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| Owner's consent has not been provided by the remaining individual lot owners of 104-118 Clarence Street or 71 York Street to lodge the DA for commence development. | Evidence of owner's consent from all properties including strata consent has been received and constitutes appropriate owner's consent for the purpose of lodging a development application. |
| A 24-hour bar precinct will have an adverse impact on residential lots within the site and surrounding residential uses. | <p>The development site is located within a Late Night Management precinct that allows 24-hour operation for food and drink premises. Supporting documentation submitted with the application demonstrates amenity impacts on surrounding sensitive uses, particularly regarding patron behaviour and noise, can be appropriately managed.</p> <p>It is recommended that all mitigation measures and management procedures accompanying the application be complied with and considered in all future detailed development applications.</p> |

| Issue | Response |
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| The proposed development removes common open space at the rooftop in the residential building. | The proposed development will result in one single residential apartment within 104-118 Clarence Street. As such, the requirements of the requirements of Chapter 4 of the SEPP (Housing) and Apartment Design Guide relating to the provision of common open space no longer apply. |
| <p>The proposal removes 40 residential units from Central Sydney and the displacement of several residents, contradicts the objectives of the Greater Sydney Region Plan and NSW Housing Strategy and is not in the public interest. The application also does not propose alternative housing arrangements. People should be able to live in the CBD.</p> <p>The proposal will also result in the loss of essential commercial office floor space and small, independently run retail spaces.</p> | <p>Whilst it is acknowledged that the proposal will result in the loss of long-term residential uses, the application is consistent with the objectives of the SP5 Metropolitan Centre zone. Tourist and visitor accommodation and food and drink premises are considered uses that serve the workforce, visitors and the wider community and provide additional opportunities for new social spaces within Central Sydney.</p> <p>Further, as discussed in the SLEP 2012 section above, the provisions for dwelling retention are not applicable as the application was made prior to the commencement of the amended plan.</p> <p>Where appropriate, affordable housing contributions are payable to further assist in the provision of housing within the City of Sydney LGA.</p> |
| The proposal does not seek to utilise the site's potential to enhance housing supply. The previous proposal for a 49-storey office building should be amended to a residential tower to increase housing. | <p>No consent has been granted for a tower on site for residential uses.</p> <p>The subject application has been assessed on its own merit and is considered appropriate.</p> |
| The proposal will result in increased noise, antisocial behaviour, violence and crime rates in the area. | It is acknowledged that the proposed use will result in varying degrees of noise and behaviour normally associated with late night entertainment uses, however, appropriate mitigation measures including acoustic controls and a precinct-wide operational plan of management have been prepared that satisfactorily address potential impacts. |

| Issue | Response |
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| <p>Noise levels have not been adequately addressed in the proposal, nor has there been sufficient monitoring or consultation to assess the full impact on the surrounding community. Inadequate noise mitigation measures are proposed, and an independent review of the acoustic assessment should be undertaken.</p> <p>The proposed nightclub and rooftop bar will create excessive noise and disturbances.</p> | <p>An acoustic assessment has been submitted with the application that has appropriately measured existing noise levels and potential impacts and mitigation measures from the proposed uses.</p> <p>Council's Environmental Health Officer has reviewed the submission and consider the findings and recommendations appropriate and conditions of consent requiring compliance with these recommendations are included in Attachment A.</p> |
| <p>There has been minimal community consultation undertaken by the applicant.</p> | <p>Applicants are not required to undertake separate community consultation.</p> <p>The application has been exhibited in accordance with the City of Sydney community engagement strategy and community participation plan.</p> |
| <p>There are no clear benefits for local residents.</p> | <p>Food and drink uses are considered a development type that contributes positively to the local area and serves local residents and visitors in addition to providing additional employment opportunities.</p> |
| <p>The development will cause significant congestion due to increased visitor traffic. Not enough parking has been allocated to the site.</p> | <p>The Sydney Local Environmental Plan does not require minimum parking rates for staff or visitors. The site is serviced by several modes of public transport and is unlikely to create a significant increase in private vehicle use.</p> <p>Further, an on-site loading dock will ensure delivery and service vehicles do not adversely impact the local traffic network.</p> |
| <p>Restricted hours of operation (e.g. 2am) should be imposed on the development.</p> | <p>The application seeks consent for 24-hour indoor operation. In accordance with the extended hours allowed in Section 3.15 of the SDCP 2012 and with matters for consideration addressed as per the 'Discussion' section above, permanent indoor hours of operation between 6.00am and 12.00midnight are recommended while 24-hour trading is recommended for a trial period. Trial periods allow for further flexibility in operation and provide Council</p> |

| Issue | Response |
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| | an opportunity to review premises management periodically. |
| The applicant has a history of non-compliance in previous developments, as reported in the media, and raises concerns about the quality of management of this development. | <p>The application has been accompanied by a precinct-wide plan of management that adequately responds to the relevant requirements of the SDCP 2012.</p> <p>As noted above, extended trading is reviewed periodically and is based on the venue being able to demonstrate good premises management.</p> |
| <p>There are already too many licensed food and drink venues in Central Sydney and the application represents an overdevelopment of this use in the area.</p> <p>The scale of the proposal represents an overdevelopment.</p> <p>The city is already over-serviced by hotels.</p> | <p>There is no maximum number of food and drink premises or hotels permissible in Central Sydney.</p> <p>The proposed uses are permissible with consent in the SP5 Metropolitan Centre zone and are consistent with the zone objectives.</p> <p>Further, a BCA report was submitted with the information confirming the site can accommodate the proposed maximum capacity in regard to fire egress.</p> |
| The development will negatively impact guests staying at The Grace Hotel by way of noise, vehicular traffic and light pollution. | <p>Supporting documentation demonstrates the development is not likely to cause an adverse impact on surrounding developments by way of traffic or noise, subject to compliance with relevant strategies and mitigation measures.</p> <p>Further, the application does not propose any external lighting.</p> |
| Shared access to infrastructure such as waste collection zones and service docks must be carefully managed to prevent overcrowding and delays. | The application has been accompanied by a waste, transport, and servicing management strategy in which it has been demonstrated that the use of the loading space can be appropriately managed so as to not cause any adverse traffic impacts on the surrounding road network. |
| Care must be taken to ensure the proposed development complements the historical prominence of the heritage buildings in the precinct, including The Grace building. | The proposed use and works to the site are considered to retain or enhance the historic significance of the heritage buildings located within the site and demonstrate compliance with the character statement of |

| Issue | Response |
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| | the York Street Special Character Area. The proposal is not considered to have an adverse impact on the heritage significance of surrounding heritage items. |
| The proposal seeks to use land that falls in an adjacent site. While part of the development site benefits from an easement over this land, the proposed development seeks to use land in the adjacent site that does not benefit from an easement over for vehicle access and manoeuvring. | The application has been amended to remove any use of the adjacent driveway for the purposes of deliveries and servicing. Whilst part of the site still benefits from the easement, the proposed operation of the site is not relying on the driveway for access. |
| The development should consider the acoustic impacts on future residential uses in the area. | <p>The application has considered the impacts on existing sensitive receivers in the area including residential and hotel uses. It is unreasonable to request a review of future uses where their location is unknown.</p> <p>Future developments for residential uses must also consider background noise levels and manage these accordingly, by way of providing their own noise attenuation measures including acoustic glazing.</p> |
| Demolition activities should be restricted to daytime hours, preferably from 9am to 5pm, to minimise disruption to residents and visitors. Any heavy works or late-night construction activities should be limited, with work permitted only on weekends and submitted to prior approval and notice periods by Council. | <p>All works must comply with the City of Sydney Code of Practice for Construction Hours and Noise. These hours are generally between 7.00am and 7.00pm Monday to Friday and 7.00am and 5.00pm on Saturday with no works on Sundays or public holidays.</p> <p>If works are sought outside these hours, a separate application must be made and approved by Council.</p> |
| <p>The existing pub on site results in too many people gathering on the footpath blocking the way of other pedestrians.</p> <p>Measures should be implemented to reduce impacts of patrons on the footpath on surrounding developments after 10pm.</p> | The use of the footpath for operation by food and drink tenancies are required to be considered under a separate footway application. These applications consider the width of the footway, shared and safe access for pedestrians and recommended hours of operation in accordance with outdoor hours as per the Sydney Development Control Plan 2012. |
| Concern is raised that future DAs may involve increasing building heights on | Future development applications will need to address the impact of any additional |

| Issue | Response |
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| Clarence Street which could further impact the neighbourhood's character and amenity. | structures on the heritage significance of the building and on surrounding buildings. |
| Merivale has a monopoly on the nightlife in Sydney and have a specific target market to patrons under the age of 25. Other operators should be able to apply to provide a precinct that is more age inclusive. | The application proposes a mix of uses including food and drink, pub uses, entertainment and hotel. There is no indication in any documentation the proposal will be targeted to a specific age group. |
| The developer should provide transparent timelines for construction stages and regular communications with affected residents. | There is no legislative requirement to complete works within a specific timeframe. The developer is encouraged to communicate with surrounding landowners when works will be carried out and future development applications will be notified to the public in accordance with the community participation plan. |
| The development must ensure access to surrounding streets, with minimal disruption to residents be maintained. | Conditions of consent are recommended to ensure the public footway is not impeded during the carrying out of works. |
| The development makes surrounding buildings unsuitable for residential purposes. | The application has demonstrated that late-night uses are capable of operating without having an adverse impact on surrounding sensitive uses with the implementation of recommended noise mitigation measures. |
| The proposed amended application has not considered previous submissions. | Applicants are not required to formally address submissions. This assessment report has considered the amended proposal and all submissions received. |
| The application has not been accompanied by a social impact assessment, and an affordable housing contribution has not been offered. | <p>Whilst not required for this development type as per section 3.13 of the SDCP 2012, a social impact assessment was submitted with the application and concludes the proposed development will have an acceptable social impact, subject to the implementation of recommended mitigation measures as discussed in detail in the SDCP 2012 discussion above.</p> <p>Affordable housing contributions are payable as discussed in the section below.</p> |

| Issue | Response |
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| <p>The application continues to lack an integrated transport and access plan or comprehensive traffic impact assessment capable of demonstrating that the surrounding road network and transport infrastructure can accommodate the projected increase in patron volumes, servicing and deliveries, emergency vehicle access and egress and pedestrian flows during peak and nighttime hours.</p> | <p>The submitted transport and servicing strategy satisfactorily meets the requirements to demonstrate the development will not have an adverse impact on the local road network or surrounding footpaths.</p> |
| <p>The application has not been accompanied by an Environmental Impact Assessment.</p> | <p>Development applications are not required to be accompanied by a formal Environmental Impact Assessment. The submitted statement of environmental effects and other supporting documentation satisfactorily address the environmental impacts of the proposed development.</p> |
| <p>Clarification is required regarding the proposed amended use of the easement on the adjacent site. How are the owners of the site able to distinguish which vehicles are servicing the sites that do benefit from the easement versus those that have no legal right to access the adjacent site?</p> <p>The easement on the adjacent site does not allow for through-travel from York Street to Clarence Street via the new proposed carriageway.</p> <p>Waste servicing from the outdoor courtyard instead of the basement loading dock will not be consistent with the terms of the easement and should not be supported.</p> <p>It is unclear how the applicant will manage who will be able to access the newly created carriageway and restrict access to service vehicles only.</p> | <p>The amended application has confirmed the driveway is not proposed to be used for site servicing.</p> <p>As discussed above, a condition of consent is recommended to include a removable bollard within the northern service courtyard to restrict any through traffic and unapproved access from the cartway to the driveway.</p> <p>Whilst part of the subject site benefits from the easement for access, it is recommended that separate legal advice be sought and discussions between relevant parties discuss the use of the driveway in the future.</p> |
| <p>The application does not propose any additional public benefit such as family friendly community facilities, cultural spaces, green public areas, or infrastructure investments.</p> | <p>The application is subject to payment of development contributions pursuant to section 7.12 of the Environmental Planning and Assessment Act 1979. Contributions will be used to fund local infrastructure projects in accordance with the Central</p> |

| Issue | Response |
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| | <p>Sydney development contributions plan 2020.</p> <p>The development is not required to provide any other additional public benefit.</p> |
| <p>The consolidation of the sites risks undermining the architectural and historical fabric of York, King and Clarence Streets.</p> | <p>The proposed works to each building are not considered to negatively impact the individual heritage significance of each building nor the heritage character of the York Street Special Character Area. The application has been accompanied by comprehensive heritage management documents that ensure the integrity of each building is maintained. The proposal is also consistent with the character statement and relevant provisions of the special character area, reinstating original features and protecting or enhancing the warehouse character of the locality.</p> |
| <p>The development will decrease property values in the area.</p> | <p>There is no indication that the proposed development will impact property values. Property values are not a matter for consideration in assessing this development application.</p> |
| <p>The proposal prioritises short-term entertainment over long-term residential stability.</p> | <p>The application proposes permissible uses within the SP5 Metropolitan Centre zone and is not required to consider incorporating residential uses within the site.</p> |

Financial Contributions

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

177. 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 Section 7.12 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.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

178. Section 7.32 of the Act outlines that the consent authority may grant consent to a development application subject to a condition requiring dedication of part of the land for the purpose of providing affordable housing, or payment of a monetary contribution to be used for the purpose of providing affordable housing where the section of the Act applies.
179. The Act applies with respect to a development application for consent to carry out development within an area if a State Environmental Planning Policy identifies that there is a need for affordable housing within the area. Clause 14 of the Housing SEPP identifies that there is a need for affordable housing within each area of the State.
180. An affordable housing condition may be reasonably imposed under Section 7.32(3) of the Act subject to consideration of the following:
- (a) the condition complies with all relevant requirements made by a State environmental planning policy with respect to the imposition of conditions under this section, and
 - (b) the condition is authorised to be imposed by a local environmental plan, and is in accordance with a scheme for dedications or contributions set out in or adopted by such a plan, and
 - (c) the condition requires a reasonable dedication or contribution required to be made by the applicant under this section or section 7.11.
181. Having regard to the provisions of Section 7.32 of the Act, the imposition of an affordable housing contribution is reasonable. A condition of consent is recommended requiring the payment of an affordable housing contribution prior to the issue of a construction certificate. The imposition of a condition requiring the payment of affordable housing contributions also satisfies the matters for consideration in Section 15 of the Housing SEPP in that contributions are to fund the delivery of affordable housing as further detailed in the City of Sydney Affordable Housing Program.
182. Section 7.13(1)(d)(iii) of the SLEP 2012 notes that contributions for the purpose of affordable housing applies to land in Central Sydney that involves the change of use of existing floor area from other than residential accommodation to residential accommodation or tourist and visitor accommodation.
183. In accordance with the SLEP 2012 and in lieu of the delivery of affordable housing, a contribution of 1% of the total additional floor area to change use from non-residential to tourist and visitor accommodation is required at a rate of \$11,646.80 per square metre. Based on the submitted Total Floor Area drawings, the proposal nominates several areas within the site as 'Hotel Accommodation', 'Hotel Ancillary' or 'Hotel Lobby & Public Bar'.
184. Based on the nomination of this floor space as uses falling under the 'Tourist and Visitor Accommodation' use definition under the SLEP 2012, the application proposes approximately 3,660sqm of hotel use floor space in addition to the proposed change of use from residential to hotel, resulting in a contribution of \$426,273. A condition of consent is recommended requiring payment prior to the issue of a construction certificate.

185. The above monetary contributions are considered reasonable in accordance with Section 7.32(3)(c) of the Act.

Housing and Productivity Contribution

186. The development is not subject to a Housing and Productivity Contribution under the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023.
187. While the site is located with the Greater Sydney region, the development reduces total floor space on site and contributions are not payable.

Relevant Legislation

188. Environmental Planning and Assessment Act 1979.
189. Heritage Act 1977.

Conclusion

190. The proposed concept development is appropriate in its setting and is generally compliant with the relevant planning controls in the Sydney Local Environmental Plan 2012 and the Sydney Development Control Plan 2012.
191. The proposal was amended to address Council's concerns relating to heritage conservation, site access and servicing, waste management and operational management. The amended proposal is satisfactory, subject to the recommended conditions included in Attachment A.
192. The application seeks Integrated Development approval under the Heritage Act 1977 as the site contains two state heritage listed buildings at 73 York Street and 75 York Street. General Terms of Approval have been granted by Heritage NSW and are included in the list of recommended conditions.
193. The application has satisfactorily demonstrated that the development site is suitable for hotel, food and drink and office uses. The application has been accompanied by suitable management plans and strategies that will guide future detailed development applications to ensure future uses will have an acceptable impact on the heritage significance of the buildings within the site, the amenity of surrounding developments and the public domain and the operation of the local road network.
194. Where the assessment of the subject proposal has identified potential issues for a future detailed design development application, such as heritage conservation, bicycle parking and end of journey facilities, waste management and servicing, these matters are identified in the recommended conditions of consent requiring further consideration.

195. The proposal will provide for new food and drink and tourist and visitor accommodation uses in Central Sydney, within a development site that is highly accessible to existing and planned employment, services and planned and existing public transport infrastructure.
196. Subject to the recommendations in this report, and the imposition of the recommended conditions, the proposal is capable of accommodating a future detailed design that responds to the constraints of the development site and contributes to the existing and desired future character of the locality.

GRAHAM JAHN AM

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