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A S S O C I A T E S

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**STATEMENT OF ENVIRONMENTAL EFFECTS
FOR PROPOSED ALTERATIONS AND ADDITIONS
TO THE
FORTUNE OF WAR AND THE RUSSELL HOTELS
137-143A GEORGE STREET, THE ROCKS**

FOR THE RUSSELL HOTEL CONSORTIUM

BY

**JEFF MADDEN AND ASSOCIATES
ARCHITECTS**

P 9555 9077

F 9555 9503

E jma@optunet.com.au

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1.0 GENERAL

This document should be read in conjunction with the Heritage Impact Statement which discusses in some detail the proposal in the light of the issues raised in the Conservation Management Plans .

This SOEE is limited to a discussion of the planning issues embodied in the relevant Environmental Planning Instruments and the Policies of the Sydney Harbour Foreshore Authority.

2.0 LAND DESCRIPTION AND THE EXISTING BUILDING

The property is known as Lot 1 in DP 790997 on which is situated a hotel building, a restaurant and two shops on the ground floor with residential accommodation over.

The buildings are of brick and stone and have frontages to George, Globe Streets and Nurses Walk.

3.0 RELEVANT ENVIRONMENTAL PLANNING INSTRUMENTS

The Sydney Harbour Foreshore Authority is the owner of the building and the following Environmental Planning Instruments and Policies need to be addressed in any proposed new work :

- State Environmental Planning Policy (Major Projects) 2005
- State Environmental Policy No. 55-Remediation of land

- Sydney Cove Redevelopment Authority Scheme drawings :

K3 Building site control drawing Key Map, and
XXXVIII Building Site Control Drawing

- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- City of Sydney Late Night Trading Premises Development Control Plan (DCP) 2007
- City of Sydney Access DCP 2004
- Central Sydney DCP 1996
- The Rocks Heritage Policy, September 2006
- The Rocks lighting policy
- The Rocks signage policy, August 2006
- The Rocks commercial signage technical manual, October 2007

Other documents which need to be taken into account in the assessment of the Development Application :

- Final CMP, 141 George Street, Sydney
- Final CMP, 143 George Street, Sydney

- Final CMP, 137 George Street, Sydney

4.0 PROPOSED WORKS

Specific works proposed are as follows :

4.1 NEW FIRE STAIR AND LIFT

- Installation of a new stair and lift to the Russell hotel which will carry through the ground, first and second floor and involve the following :
- The removal of a ground floor tenancy in the south west corner of the complex at the corner of Globe Street and Nurses Walk. The space will be incorporated into a new Foyer for the Russell Hotel, complete with new shopfronts, ceilings, floor finishes and the like as required.
- Installation of a new fire stair and lift to service all floors to terminate above the existing line of roof. The work will also involve the creation of a new electrical cupboard and duct space and the removal of bedrooms and en-suites on the upper two floors of the Russell Hotel.
- The existing fire stair to the north west of the building is to be retained.

4.2 GROUND FLOOR WORKS

- The existing Kitchen is to be refurbished including the alteration to some internal walls as illustrated on the documents. The existing access stair is to be removed and new roofed over stairs, raised landing and cool room are to be installed in the location of the existing light well.
- The rear existing exit doors and window to the tenancies in 139-141 George Street, are to be closed off.

- The existing Poker Machine Lounge area on Nurses Walk is to be converted into toilets and a new passage between the Fortune of War and the Russell Hotels created. The scheme allows for the possibility for the creation of a gallery between the Russell and the FOW Hotels at a later date.
- Removal of the existing bar in the location shown on the drawings and conversion of part of this space into a poker machine area.
- Remodelling the Dining area into a small lounge sitting area.
- Provision of a new Bar in the Russell Hotel.
- Removal of the existing Male and Female toilets in the FOW Hotel and the re-establishment of a new light well, cool room and store and duct space. Existing poker machines are to be relocated into the space created together with a disabled hoist.
- Creation of new toilets at the rear of 139-141 George Street in an existing lounge.
- Repair all services as required
- Improvement of disabled access and general circulation throughout the floor.
- Installation of emergency and exit lights as required.
- Upgrade to the bar to the FOW as required.
- Provision of BCA upgrade works as recommended in the BCA Consultants.

4.3 FIRST FLOOR WORKS

- Relocate a wall to the Office to Russel Hotel on Level 1 and make good.
- Remove an internal wall in the existing office in the FOW and generally make good. Convert the space into a room with en-suite.
- The existing fire stair is to be retained for the present.
- Remodel one room for use by the disabled.
- Provide a new roof to the new passageway at the Rear of the Russell Hotel.
- Repair all services as required
- Install emergency and exit lights as required.
- Remove a room and en-suite to allow for the installation of the new lift and stair as noted in new fire stair and lift works
- Upgrade all bathrooms and bedrooms, the sitting room, lounge and office as required to achieve a three star rating.
- Provision of BCA upgrade works as recommended in the BCA Consultants.

4.4 SECOND FLOOR WORKS

- Extend and remodel a suite located in 139-141 George Street to create 4 single bedrooms with en-suites and a corridor.
- Remove internal walls to the Russell Hotel in the location of an existing bathroom and store to permit the creation of a new passageway to improve circulation throughout the building.
- The existing office in the FOW is to be converted into a lettable room with en-suite.
- Remodel one room for use by the disabled.
- Repair all services as required
- Install emergency and exit lights as required.
- Remove room and en-suite to allow the installation of the new lift and stair as noted in new fire stair and lift works
- Upgrade of all bathrooms and bedrooms, the sitting room, lounge and office as required to achieve a three star rating.
- Provision of BCA upgrade works as recommended by the BCA Consultants.

4.5 ROOF WORKS

- Provide new roof over the lift over-run penetration at the rear of the Russell Hotel and provide service penetrations as required.

- Provide an extension to the existing roof over the 139-141 George Street over the new rooms and install 2 ventilating skylights over the new en-suites.

4.6 BASEMENT WORKS

- Upgrade the cool rooms as required
- Update the timber shelving as required.
- Excavation works as required to provide a new pit for the proposed lift
- Excavation works as required to provide new drainage lines from the new toilets and bar in 139-141 George Street.
- Provision of BCA upgrade works as recommended in the BCA Consultants.

5.0 ASSESSMENT OF THE PROPOSAL AGAINST THE ENVIRONMENTAL PLANNING INSTRUMENTS

5.1 GENERAL

In the following pages the scheme will be assessed against the various Environmental Planning Instruments and Policies as they relate to the subject proposal as follows :

5.2 STATE ENVIRONMENTAL PLANNING POLICY (Major Projects) 2005

Under the Provisions of the SEPP :

- The project is not a Part 3A project under Schedule 1, as it is a residential and commercial project with a capital investment value less than \$50 million dollars. Group 5 (CI 13)

- The project is not a Part 3A project under Schedule 2, as although it falls within a 'Metropolitan Coastal Zone; a sensitive coastal location less than 100m from the mean high water mark of a sea, bay or estuary, it has a total of 30 rooms, for a maximum population of 60 people, which is less than the accommodation of 100 people required for it to be such a project. CI 1.f(ii)
- The project is not a Part 3A project under Schedule 2, as while though it falls within a 'Metropolitan Coastal Zone' and has a height in excess of 13m, the works are generally internal and are of a minor nature, being alterations and additions under the schedule. CI 1.g(i)
- The project is not a Part 3A project under Schedule 2, as while it is a 'Sydney Harbour Foreshore Site', being part of the 'Rocks and Dawes Point-Map 9', as the value of the works is less than \$5 million dollars. CI 10(1)(b)
- The site is not listed under Schedule 3, and therefore not a Part 3A project.

As noted above the works proposed works do not comprise a Part 3A project under the legislation, and under Schedule 6, as the value of the works proposed is less than \$5 million Dollars, but under Part 4, the Minister is the Consent Authority for development under the LEP within Sydney Harbour Foreshore sites. Part 1 (1)(b). (The Environmental Planning and Assessment Act 1979),

Finally, in view of the above the proposal does not constitute a major project under the SEPP (Major Projects) legislation of 2005, but the development will need to be approved by the Minister.

5.3 STATE ENVIRONMENTAL PLANNING POLICY NO. 55 – Remediation of Land

4.3.1 GENERAL

The question of whether the site is or is not polluted is generally related to the uses to which they have been put over time. In this case the uses of the site and buildings thereon are clearly spelt out in the DCP's and the HIS but in summary the uses of the sites in question were and are as follows :

4.3.2 Fortune of War Hotel

The site of the hotel was part of Sydney's first Hospital and store in 1807. It became a government quarry c1820, and in 1830 a hotel was erected on the site by Samuel Terry. The existing FOW Hotel was erected in 1921, and the site has continued to be used for hotel purposes to the present time.

5.3.3 139-141 George street

The site of the hotel was part of Sydney's first Hospital and store in 1807. It became a government quarry c1820, and in 1830 a hotel was erected on the site by Samuel Terry. The hotel was demolished and the site was vacant c1866. The existing building on the site was erected 1882 as two shops with residences over. The upper floors became part of the Russell residential complex in 1984 and the shops have remained in continuous use since 1882.

5.3.4 The Russell Hotel

The site of the hotel was part of Sydney's first Hospital and store in 1807. It became a government quarry c1820. New weatherboard terraces were erected in Globe Street c1830 and in 1864 Stone terraces were erected which replaced the weatherboard terraces. The Port Jackson Hotel (Russell Hotel) was erected in 1887. In 1913 the existing stone terraces were demolished and new terraces were erected in Globe Street. The terraces were later incorporated into the Russell Hotel complex and the property has been subjected to a series of renovations subsequently.

5.3.5 Conclusions

On the basis of the above uses there appears to be no reason to suspect contamination on any of the sites. They were at no time used for industrial, agricultural or defence purposes and none of the activities listed in Table 1 of the SEPP have occurred on the site. We contend therefore, that contamination is not an issue in this case.

In addition the change of use of the existing Restaurant to a Wine bar/Hotel is not a polluting activity as listed in Table 1 of the SEPP document.

5.4 Sydney Cove Redevelopment Authority Scheme

Under the Scheme the complex lies in area 38 as noted on drawing K3 wherein the proposed work is permissible.

The Building Site Control Drawing No. 38, establishes height envelopes for new work in the area. The drawing illustrates permissible building heights for the block surrounded by Globe, George, Harrington Streets and Greenway Lane. The drawing permits some infill development on the block but generally no additional development is permissible over that which exists except for structures associated with Lift motor rooms and and plant.

In the present case the existing courtyard area is permitted to be developed to 21m. The additions proposed involve a new roof to an existing courtyard with a height of approximately 4.1m and an extension to the second floor rooms at a height of less than 12m which is permissible under the scheme, and a penetration of through the roof at the rear of the Russell Hotel for the lift over run which may be permissible under the scheme.

We believe the proposed additions are in line with the intent of the scheme and provide minimal intervention in the existing buildings commensurate with improvement of circulation and disabled access throughout the buildings.

5.5 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

This REP applies to the hydrological catchment of the harbour. It also defines and contains specific provisions for the 'Foreshores and Waterways Area' (which are generally the area 'one-street back' from the foreshore), strategic sites, heritage items and wetlands protection areas and the like.

In the present instance the site of the proposal is one street back from the waterfront, and Part 1 of the REP defines the consent authority for, inter-alia, for land based development above the MHWL, sea walls or boat sheds and the like, and

land/water interface development-being development for any of the purposes listed in the definition eg. commercial marinas or boat repair facilities.

The site falls within Zone 1-Maritime Waters, but the subject buildings have only limited association with the waterfront being commercial and hotel uses servicing the harbour in a past age. In the present proposal there is no change to the principal facades one street from the waterfront (George Street) and therefore the REP does not apply.

5.6 City of Sydney Late Night Trading Premises Development Control Plan (DCP) 2007

5.6.1 Commercial Hotel Floor Areas

The floor areas on the ground floor component of the building to be used for commercial hotel uses at the conclusion of the proposed works will be as follows :

Ground Floor

-	Hotel Foyer	24.72
-	Kitchen	19.78
-	Bars	33.22
-	Sitting space	214.03
-	Toilets	30.65
-	Stores	12.97
-	Stairs and passages	65.14
		<hr/>
		400.51

5.6.2 Population of the Hotel

From the BCA, the population of the ground floor for assessment purposes is as follows :

-	Bar sitting	214.03/0.5	428.06
-	Bar serving	33.22/1.0	33.22p
-	Kitchen	19.78/10	1.98p
-	Stores	12.97/30	0.43p
			<hr/> 463.69p

Clearly, it would not be possible to squeeze into the bar sitting areas of the FOW and the Russell Hotels, allowing for furniture and circulation 428 persons, and believe that, practically, the maximum number of patrons using the spaces at any one time would be unlikely to exceed 250. Of this number, the new Wine Bar/Hotel in the Russell hotel is unlikely to accommodate more than 70-100 people at any one time.

5.6.3 Category of use under the DCP

Under Clause 2.4 of the DCP, the venue is classified as **Category A premises-high impact**, as the probable population of the venue will be greater than 120 patrons at completion of the proposed works, being a hotel under the meaning of the Liquor Act of 2007, where the primary purpose is the sale or supply of liquor for consumption on the premises.

5.6.4 Late Night Trading Areas

Map 3.2 of the DCP designates late night trading areas, and it is of note that the Rocks area is not designated as one of these areas. The DCP however, despite the above requires that document must be taken into account in the assessment of a Development Applications for a new late night category A venues, which the new Wine Bar/Hotel will be.

The DCP lists permissible 'Base' and 'Extended' trading hours for Category A premises, and in this case the area falls into the '**All other category A premises**' category, within which the base trading hours are 10am to 10pm and extended trading hours are listed as 10am to Midnight.

By way of definition '**Late Night Trading Areas**' are noted as venues that trade between 10pm and 7pm on the following morning.

With the proposed development, the existing Fortune of War Hotel trading hours are to be retained and the proposed hours of operation of the new Wine bar/Hotel are to be generally in line with the FOW hotel closing hours, however, trading will commence later than those of the FOW, at 11.00am.

- Monday to Thursday 11.00am to 12.00 Midnight
- Friday to Saturday 11.00am to 2.00am
- Sunday 11.00am to 12.00 Midnight

5.6.5 Matters for Consideration in Late Night Trading Premises

Under the DCP a number of matters are to be considered and these are addressed below as follows :

a The location and context of the premises including proximity to residential and other sensitive and other late trading premises.

The proposed venue is located in the Rocks area commercial district. There are a considerable number of commercial hotels, restaurants, both indoor and outdoor, and wine bars in the locality which are vibrant tourist and entertainment destinations that generally trade as late night venues, however the details of trading hours in the locality are not known to us.

In addition, there are also a considerable number of residential hotels close by, including the Russell Hotel itself which is a residential hotel catering in the main for tourist trade. This hotel being the closest to the new noise source, the Wine bar/Hotel in the Russell is likely to have the largest negative effect on the residents in the building and far more than any other residential hotel in the locality, but believe any adverse effect would be minimal as the FOW hotel already operates to the proposed closing hours, and in the design for the new Wine bar/Hotel we have taken the precaution of providing insulation at ceiling level in the venue to reduce sound intrusion on the residential hotel over.

b Specific nature of the premises, ie. pub, nightclub, restaurant etc., and the proposed hours of operation

The venue is to operate as a Wine bar/Hotel directly selling beverages to the public to be consumed on the premises. This activity is similar to that conducted in the FOW hotel which adjoins the subject property, and this venue will close at the same hours as that hotel.

c The existing hours of operation of surrounding businesses

As noted earlier the new Wine bar/Hotel venue in the Russell Hotel will commence after the opening hours of the FOW hotel and close at the same time as the FOW. We are not in a position to determine the opening and closing hours of other venues in the locality.

d The size and patron capacity of the premises.

As noted earlier the total number of patrons expected to use the premises in peak times including the Russell and the FOW Hotels is not expected to exceed 250 persons, due to the proposed furniture layout and restrictions imposed by the area available. The Russell hotel new bar will have a sitting area of 68 sm could be expected to cater for no more than 70-100 persons at any peak period.

e The impact of the premises on the mix, diversity and possible concentration, of late night uses in the locality.

The Locality has a concentration of late night premises, and there are a considerable degree diversity uses, and while the change of use of this venue from a restaurant to the proposed Wine bar/Hotel will intensify the number of liquor outlets in the locality, the capacity of the new venue will be relatively small catering for a maximum of 100 persons. This number of patrons is unlikely to create a serious upset to the trading dynamics in the locality, and is also unlikely to upset the diverse mix of venues in the locality.

f The likely operation of the proposal during daylight hours.

The venue is to open at 11.00am and is intended to serve the lunch time crowd. The kitchen will offer meals with wine or beer and will not be very much different in function to the present venue except that alcohol will be served, but it is expected that later in the day meals will take a lesser role, so that the vibrancy of the locality will not be impeded with the proposal.

g Submission of a Plan of Management that demonstrates a strong commitment to good management of the operation of the business, particularly in relation to managing potential impacts of adjoining and surrounding land uses and premises, as well as the public domain.

Under Clause 3.3 of the DCP a Plan of Management is required for all new Category A premises where extended trading hours are sort.

There are some matters which might emerge during the assessment process which will need to be addressed in the Plan of Management, so propose that this required document be made of condition of approval to the Development Application rather than being dealt with here.

h The diversity of retail services within an area and the impact of a late night proposal on this diversity

The retail trade in the locality is considerably diverse and in the main caters for the tourist trade. It consists of restaurants and hotels, high end retail outlets and the like. The change of use of the Restaurant to a Wine /bar hotel will have no measurable effect upon the present diversity of use of property in the area. The proposed late Night Trading hours of the new venue will not in our view have a significant impact on the numerous eating venues and hotels in the locality which are late night venues within the meaning of the DCP. It should also be noted that the hours of operation proposed for the new venue will be in line with the hours of termination of trading for the FOW hotel, so are of the opinion that the proposal will have no adverse effect on the present local diversity of retail services.

i Measures to be used for ensuring adequate safety, security and crime prevention both on the site of the premises and in the public domain immediately adjacent to, and generally surrounding, the premises

With respect to security arrangements, the FOW currently employs a licenced security company on Thursday, Friday, Saturday and Sunday nights to maintain law and order and ensure the Responsible Sale of Alcohol. With the present proposal to provide a Wine bar/Hotel in the Russell Hotel additional security people as follows are to be employed as follows :

- Thursday 1
- Friday 1
- Saturday 1
- Sunday 1

Security matters will be addressed in more detail in the required Plan of Management document referred to above, but as noted earlier we believe that this matter can be conditioned in the Development Approval.

j The availability and frequency of public transport during the late night trading hours

Public transport in the form of trains and buses is readily available in the locality, and taxi services are also available. It is recognized that the frequency of public transport from 10.00pm-2.00pm will fall away, but the new venue is small, catering for no more than 70-100 persons at any one time and believe the transport available for the Rocks area is sufficient to cater for this new venue.

5.6.6 CITY OF SYDNEY ACCESS DEVELOPMENT CONTROL PLAN 2004

a General

Under the provisions of this DCP and in particular Clause 1.9, a continuous path of travel to and within the building is required through the main entrance to all public areas.

In this case due to the nature of the building, its many changes of level, its historic nature, its heritage listing accompanied by subsequent limits on the amount of physical intervention permitted in the existing fabric of the building, it is not possible to comply with the requirements of Clause 1.9. We have therefore proposed an alternate approach to providing disabled access and facilities throughout the building as outlined later in this report. The basis of our approach revolves around an argument of justifiable hardship due to the heritage nature of the building.

While the solution proposed is not desirable, the compromise proposed seeks to balance heritage considerations with equity issues outlined in the DDA and this DCP.

b Access to heritage items

Under the provisions of CI 3.2 of the DCP with respect to heritage items the following is noted :

- “- The provision of access for people to and within heritage items should have minimal impact on the significant fabric of the item and, as far as possible, be reversible;
- Where such access is likely to have a major adverse impact on significant fabric alternate solutions should be considered;
- Alternate solutions may include a temporary ramp, access through a side entrance or the like. However, applicants should note that these solutions will only be acceptable as a 'last resort', and that every effort should be made to ensure that equitable access is provided through the principal entrance of the building.”

c Areas of non-compliance with the BCA for handicapped access

The building is a Part 3 and Part 9b building that does not comply with this DCP or the BCA in many respects but we have in the proposed design endeavoured to improve the present situation. The following table examines the degree of non-compliance with the appropriate codes and standards.

**BCA Table 3.2
REQUIREMENTS FOR ACCESS FOR PEOPLE WITH AISABILITIES**

Class of building	Access requirements	Y/N	Degree of non-compliance
Class 3			
(a) Common areas and unique features	(i) the common areas on the storey incorporating the principal public entrance	No	- The lift provides limited access to the first and second floors but steps internally on the floors preclude access to the Lounge, Sitting Room and principal public corridors on the first floor level, and it is not possible to provide ramps or hoists on these floors without excessive distruction of historic fabric.
	(ii) any facility to be accessible; and	Yes	- Two rooms are to be set aside for the disabled access and use and will be fitted with handicapped facilities.
	(iii) not less than one of each room or area in which a unique service is provided or which has a unique feature	No	- Access at grade is available at ground level from the

	<p>occupants</p> <p>(v) There is a concession under D3.4 of the BCA which notes that it is not necessary to provide access for people with disabilities to more than 30% of the public space within a bar or any area where access would be inappropriate because of the particular use for which the area is used.</p>	No	<p>hotel over,</p> <p>- Access from the Russell Hotel to the upper ground floor of the hotel and the handicapped toilet is not possible without a loss of significant historic building fabric and a severe reduction of the usable space within the tenancy. There is a 0.22m step half way through the area which would require a 3.08m internal ramp at 1:14, and at the connection to the upper ground level there is a height separation of 1.64m with the Kitchen located approximately 0.85m above the upper level bar floor. Hoists could be installed as shown in the HIS, as an investigated and rejected internal solution, but a new location for a cellar would need to be found, and ideally this would be below the bar and involve a considerable amount of sub-floor excavation and disturbance to historic fabric. As a compromise under the hardship provisions of the DDA we feel access via the FOW using the ramp to George street discussed earlier or the level entrance to Nurses Walk might be employed. This solution is not desirable but workable. It might be argued that the bar lounge of the Russell Hotel represents less than 30% of the combined floor operated by the Lessees of the complex which is to be run as a single entity, that compliance is not required under the concession provisions of the BCA</p>
Disabled toilets	In accordance with Part F2.4 of the BCA the commercial hotel component of the building has a requirement for less than 100	Yes	One disabled toilet has been provided as required

	pans so 1 unisex toilet is required for the disabled.		
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d Requirements of the DCP

As noted above, in the modification of historically significant buildings the loss of highly significant building fabric must be balanced with the need to comply with the appropriate codes and standards. The DCP and the DDA recognise that the loss of such fabric could constitute an argument for '**unjustifiable hardship**'.

Further, in Clause 3.1 of the DCP (Development Assessment), it is noted that Section 23 of the DDA recognises that it may not be possible or fair to enforce the requirement for access to premises in all situations, and allows for claims of 'Unjustifiable Hardship'. In such cases all relevant circumstances of the particular case are to be taken into account. These may include :

- Technical limits; or
- Topographical restrictions; or
- Financial circumstances; or
- Heritage issues

Where the provision of access for people with disabilities is not possible, a '**statement requesting variation**' should be submitted with the development application.

In the present case the building complex was erected at various points in time as individual buildings and only later combined as a single complex, apart from two shops on George Street which are occupied as separate tenancies.

The buildings are heritage listed and presently have no disabled toilets or rooms accessible to the handicapped and there is no continuous accessible path of travel throughout the building due to the many changes of floor level.

With the above in mind, we have endeavoured to improve the present situation to some extent but without considerable destruction to the surviving historic fabric, this heritage complex cannot be made to comply with the DCP. We have however provided a lift which will provide access to all floors of the complex except for the basement which is a restricted access space, and a small rise hoist at the rear of the FOW will provide access to the upper ground floor and a proposed disabled toilet. Access to the upper ground floor will also be available for the disabled via the new entrance to the Russell Hotel in Nurses Walk which will have a level entry.

Access however, is not possible from George Street at the front entrance to the either the Russell or the FOW hotels due to existing thresholds which are part of the historic fabric of the building, nor is access possible within the Russell hotel to the rear proposed disabled toilets as there is an internal step which is required to be maintained by the CMP. Access from the main lounge area, and works required to provide rear access off the lounge to the upper ground level would involve the installation of two low rise hoists, a dramatic loss of bar area and sub-soil excavation to provide a new cellar to service the bar. Access to the upper ground floor is to be provided through the FOW hotel and via a removable checker plate ramp provided for this purpose.

On the upper levels of the building it is intended to alter two rooms for use of the handicapped with access from the new lift, but complete access to the upper floors will not be possible for the disabled.

e Variation request to DCP 2004 and the requirements of the DDA

We formally here request a variation to **Development Control Plan 2004** and the requirements of the DDA to permit the work to proceed as compliance would result in unjustifiable hardship as designed for the following reasons

- A All design options have been explored and apart from the loss of significant historic fabric from the building, compliance cannot be achieved. Any such work is not permissible under the CMP's. See the HIS where this matter is discussed in some detail under the Russell Hotel where an alternate solution to the bar is illustrated.

- B The costs of the works is not an issue and we have not provided a cost estimate for the work and do not use the cost issue as justifiable hardship. Our Client's are prepared to carry out works as necessary at whatever cost to provide disabled facilities to the complex but we are restricted by the heritage listing of the building and the CMP which limits what might be done.
- C The physical design constraints are created by the many different levels within the buildings, the CMP's, the need to preserve existing heritage fabric and planning limitations and possibilities of the Russell Hotel and the existing historic thresholds in George Street which cannot be altered and represent considerable justifiable hardships.
- D The proposed design addresses the question of disabled access to George Street through the provision of a removable ramp, which would be kept behind the bar in one of the hotels for access to the FOW and the Russell, if permitted to encroach into George Street for the purpose of access. We believe the safety, accessibility, legibility and consistency of the public domain will not be adversely affected.
- E In other respects, the design addresses disabled access and facilities through the provision of a level access at the new entry to the Russell Hotel off Nurses Walk, a lift, installation of a disabled hoist at the rear of the FOW hotel, a disabled toilet on the upper ground floor and the modification of two rooms for disabled use on the upper floors. The solution proposed while not compliant addresses disabled issues to the degree possible given building constraints and believe there is no alternative solution without a substantial loss of historic fabric which will result in impact on the heritage significance of the place.
- F We are of the opinion that given the limitations and the complications presented by the building the solution proposed is reasonable and should be granted as imposition of the requirements of the DDA in this instance would create an unjustifiable hardship on the Lessees of the building.

5.5.7 Central Sydney DCP 1996

Under the provisions of Clause 1.3 of the DCP the provisions of this document do not apply to the subject site, but due to the lack of a specific control document for the Rocks area, SHFA have adopted the General Provisions of this DCP for the assessment of Development Applications in the Rocks area.

In the following Clauses we will address the general provisions of the DCP as follows :

a Building Form and Character

In the present case the building is existing and will remain unaltered except for minor alterations to the west of the property in Globe Street and Nurses Walk. The buildings were built originally to the Street alignments as recommended in Clause 2.1 of the DCP for new buildings.

b Street Frontage Heights

The height of the existing buildings are to remain unchanged at the street front but there will be an increase internally in the height of some elements.

Generally as no changes to the street fronts with respect to height are proposed the provisions of Clause 2.2 do not apply.

c Building Setbacks

In the present case the building is existing and will remain unaltered on the street facades.

Generally as no changes to the street fronts are proposed the provisions of Clause 2.3 do not apply.

d Street Frontage Activities

The objectives of Clause 2.5 of the DCP is to provide active street fronts and pedestrian oriented activities that add life to the area, particularly at ground level in retail and major pedestrian streets.

In the present case the George Street façade has an existing active street frontage but the street front facades in Nurses Walk and Globe Street are passive and relatively uninteresting. The introduction of the new attractive shop fronts in these

streets for the new entry to the Russell hotel will create visual interest and be in line with the provisions of Clause 2.5, and will provide an active frontage at ground level.

The change of use of the restaurant to a Winebar/hotel will have neither a positive or negative effect on the existing active street front

e Building Exteriors

In the present case the building is existing and will remain unaltered on the street facades except for the new shop fronts and minor door alterations on Nurses Walk.

Generally the changes proposed to the street fronts are minor and the finishes selected to new doors and walls is intended to match adjoining finishes in general compliance with the provisions of Clause 2.7.

f Views

In the present case the building is existing and will remain unaltered on the street facades.

All alterations to the buildings are internal and while some additional floor space will result, this work involves additions at the same levels of existing roofs except for the project for the lift well but the work will not impinge on the views enjoyed by surrounding buildings and therefore is in line with the provisions of Clause 2.8.

g Extensions to Heritage Items

Refurbishment and extensions to heritage buildings should be designed to respect and compliment the style, form, proportion and materials of the heritage building.

The objectives of CI 2.9 are to :

“Conserve heritage items in their entirety and use them in a manner appropriate to their heritage significance to ensure that any extensions to, or new development adjoining a heritage item compliment its, style, form, proportions”

The Clause requires the preparation of a CMP and HIS for the item. This work has been completed and is available under separate cover.

In this case the work involves internal alterations in the main in areas of lesser significance, and façade work in Globe Street and Nurses Walk has been justified in the HIS document.

h Pedestrian Amenity

The pedestrian amenity provisions of the DCP are aimed at achieving a high quality of urban design and pedestrian comfort in laneways. The environment should be safe, functional and available to all and they should provide a wide variety of opportunities for social and cultural activities. Such lanes should be developed to provide active frontages, and design details that provide visual interest.

In this case the buildings are extant and Nurses Walk falls into the category of a lane effected by CI 3.1 of the DCP. While there is little opportunity to create useful and interesting pedestrian connections as well as service access in the laneway, the creation of the new Russell hotel shopfronts will in concert with the provisions of this Clause.

i Easy access

Clause 3.8 of the DCP notes that all buildings shall be in compliance with the City Access Code which is related to disabled access.

In this instance the new entry to the Russell hotel is to be level with the entrance to the main footpath on Nurses Walk and provide ready disabled access, but access to the commercial component of the buildings fronting George Street for use by those with disabilities is not possible without the demolition for historic fabric. In this instance we intend to provide removable checkerplate ramps. (See HIS)

j Environmental Management

As the buildings presently exist, the provisions of CI 4.0 generally do not apply to the present proposal, however, matters relating to energy efficiency are dealt with through Section J of the BCA.

As the building is not a new construction an Energy Efficiency report is not attached to the application.

k Noise reduction

It is noted that loud noises affect the amenity of spaces and that residential buildings should be isolated from noise sources.

The new Wine bar/hotel in the Russell Hotel will generate additional noise over that which presently exists and to protect pedestrians and the residential occupants of the building from being unduly effected from excessive noise, internal insulation will be provided through a suspended acoustic ceiling in the venue. (See also the Acoustic report)

l External lighting of the building

There is to be no changes to the external lighting systems to the building over that which presently exists.

m Parking

There is no parking on the site and no parking is intended to be provided.

n Loading, Delivery and Service buildings.

There is intended to be no change to existing arrangements.

n Bicycle parking

No such facilities presently exist and none are proposed.

o Motor Cycle Parking

No such facilities presently exist and none are proposed.

6.0 SYDNEY COVE REDEVELOPMENT AUTHORITY POLICIES

6.1 The Rocks Heritage Policy, September 2006

This document was published in 2006 and it is not a statutory planning document, however it has been adopted by SHFA to provide a firm understanding of the heritage value of the Rocks and a guide to the Authority in the conservation and management of the place.

Under section 1.4 “Heritage policy for the Rocks”, the following is stated inter-alia :

“The authenticity and diversity of The Rocks should be maintained.

Heritage conservation should underpin other operational and management objectives affecting the urban fabric, uses and activities within The Rocks.

Heritage conservation includes all processes for looking after the place so as to retain cultural significance, including maintenance, preservation, restoration, reconstruction and adaptation”.

6.2 The Rocks Lighting policy

This policy controls external lighting in The Rocks area. In this case no additional external signage is proposed so the policy is not relevant to the present application.

6.3 The Rocks signage policy, August 2006 and the Rocks commercial signage technical manual, October 2007

The codes cover the signage in the whole of The Rocks area and effect all new signage. It is proposed to erect three new signs as follows :

- A gold lettered transome sign in Nurses Walk on the new shop front to identify the new entrance to The Russell Hotel.
- Two new awning directional signs indicating the way to the entrance to the Russell Residential Hotel

Under the code Nurses Walk is classified in Figure 2 as a Type A Laneway and Globe Street is classified as Type B wide Street.

The table on page 19 allows transom sign in both Nurses Walk if not more than 80% of the available height and shingle signs are permissible on the facades of wide streets to a maximum size of 650x1200. We have adopted the typical detail as illustrated in note 2 and the sign is not to be illuminated.

The signs as proposed comply with the Authorities codes.

The existing signs on the building are illustrated photographically below :



Painted business
identification sign

Date of construction sign

Painted business
identification sign

Street name

Historical reference sign

Notice Board

Painted sign

Transom sign

Awning signs

Notice sign

Painted sign



Transom sign

Fascia sign



Existing road sign

Existing tenancy sign to be removed



Business advertising sign

Promotional sign

7.0 SUNDRY MATTERS

7.1 Environmental effects of the development. These may include effects on the building, landscape streetscape, amenity, traffic, waste, utilities, social and economic impact, disabled access etc.

We have discussed earlier in this report aspects of the proposal in relation to the various Environment Instruments, but to round off the discussion it is important to acknowledge that there are two principal aspects to the proposal, firstly the change of use of part of the building from a Restaurant to a Wine bar/Hotel and secondly a general upgrade of the building complex. We below address the environmental effects these two aspects of the proposal separately.

7.2 Change of Use

The change of use of the existing Restaurant to Wine Bar/Hotel venue will not result in any loss of amenity in the locality. The surrounding area is exclusively commercial, however the proposal will generate a degree of noise which may have some effect on the residential component of the Hotel itself. It is intended to isolate the residential area of the building from the new venue with sound insulation material provided on a false ceiling. This measure we believe will provide a reasonable degree of protection for the residents above. See also the Acoustic report.

It is not believed that the venue will result in any increase in traffic generation over and above that which already exists, and there are ample local parking stations and on-street parking facilities which may be used by those who choose to drive to the locality, however, it is thought that the venue will in the main be frequented by tourists residing either locally in various hotels in the Rocks or Greater Sydney, commuting office workers and younger people after hours. Daytime trade is seen as being minor.

The venue will generate additional waste particularly in the form of bottles which will be stored on site in bins and collected twice a week. Food scraps and general waste and paper will be stored on site and collected daily and the Manager will

arrange for collection of all waste by a Garbage Collection Company. It is not expected that waste will result in any negative environmental affect to the locality. See also Waste Management Plan.

The existing utilities are to be altered in the building only in so much as is necessary to provide services to the new Bar and permit alterations proposed in the existing Kitchen. Care has been taken to concentrate the new required services together to reduce the number of penetrations in the building required by the new work but inevitably there will be some effect on the historic structure. This impact is discussed in the services reports and the Heritage Impact Statement and earlier in this report.

In terms of Social and Economic impact the proposed new use is compatible with development in the surrounding area which consists of Restaurant, Entertaining, Hotel uses together with Retail uses generally oriented to the tourist trade and the proposed use is a more economically sustainable development than the present use.

With respect to access for people with disabilities the disruption to the building required to provide full compliance with the BCA would be such as to totally conflict with the Conservation Management Plans and result in a considerable loss of significant heritage fabric. A compromise solution to the problem involves the provision limited access to the building through the use of a removable ramp and a short rise hoist in the FOW Hotel to provide access for the handicapped to the toilet facilities on the upper ground floor internally. Compliance with the DDA has not been achieved.

With respect to energy conservation matters, where changes to a space are proposed Section J of the BCA is to be complied with in the new works.

The hours of operation of the venue are to be generally in keeping with the closing hours of the FOW, but the FOW opens at 9.00am, whereas the new facility will open at 11.00am. There are presently no problems with the present hotel so we do not expect any problem with the new venue. The proposed hours of operation are to be the subject of a Plan of Management to be submitted at a later date.

On the whole the proposal while not in complete compliance with the provisions of the BCA, is considered reasonable a compromise which should be approved given the historic nature of the building.

7.3 Upgrade works

The existing building is generally to be altered internally to provide better circulation, improved amenities and a general upgrade of the building to achieve a 3 star rating. The only visible outside changes to the building are the installation of new shopfronts in Globe Street and Nurses Walk, minor wall alterations in Nurses Walk, additions on the second floor for two new rooms, the roofing over of an existing ground floor courtyard, and a roof penetration in part of the Russell Hotel for the lift motor room over run.

These changes and the changes internally are addressed in detail in the Heritage Impact Statement, and earlier in this report as they relate to the Conservation Management Plans for the complex and the various Environmental Instruments. The building has no landscaped areas and the new shopfronts are generally in keeping with the Heritage shop fronts in the locality and will contribute positively to the the existing streetscape.

The roof penetration for the Lift Motor room is necessary if a commercial lift is to be installed. A handicapped access lift might be used to retain the existing roof line but this is considered to be an unsatisfactory solution in a commercial hotel. The penetration will occur behind the main rear ridge and believe the works to be reasonable. It should be noted that the penetration is permissible in accordance with the notes on drawing 38 of the Sydney Cove Redevelopment Authority.

Internally, the extent of works proposed has been detailed earlier in this Statement of Environmental Effects and the HIS and it is not intended to repeat that discussion here.

The existing utilities are to be altered in the building only in so much as is necessary to provide services to the new Bar and permit alterations proposed in the existing Kitchen, installation of the new toilets, installation of two new rooms on the second floor and the alteration of two upper floor rooms for disabled use. Care has been taken to concentrate the new required services together to reduce the number of penetrations in the building required by the new work but inevitably

there will be some effect on the historic structure. This impact is discussed in the services reports and the Heritage Impact Statement and earlier in this report.

There is to be no change to the existing use of the residential component of the hotel or for that matter the FOW hotel and contend that the proposed works will have no negative impacts on the complex over that which presently exists.

The venue generates waste particularly in the form of bottles which are presently stored on site in bins which are collected twice a week. Food, general waste and paper are also stored on site and collected daily and the Manager arranges for collection of all waste by a Garbage Collection Company and is not expected to change the present situation. The present situation presents no negative environmental affect to the locality and it is not expected that the situation will change with the current proposal. See also Waste Management Plan.

With respect to energy conservation matters, where changes to a space are proposed Section J of the BCA is to be complied with in the new works.

In terms of social and economic impact of the proposal, the new use is compatible with development in the surrounding area.

With respect to access for people with disabilities the disruption to the building required to provide compliance with the BCA would be such as to totally conflict with the Conservation Management Plans and result in a considerable loss of heritage fabric. The compromise has been to introduce a new lift which will provide limited access to the building from the Nurses Walk, a removable access ramp to George Street and an internal short rise hoist at the rear of the FOW Hotel to the upper ground floor to provide disabled access to disabled toilet facilities.

7.4 STEPS THAT WILL BE TAKEN TO MITIGATE ANY ADVERSE EFFECTS OF THE PROPOSAL

It is not anticipated that there will be any adverse impacts of the proposed development. The building is a Commercial and Residential Hotel and will remain so, but the work will involve some disturbance to the historic fabric in order to effect the proposed works but in the event that additional work to the historic fabric is found necessary outside of the work noted in this submission, the work will be halted pending inspection by a heritage architect and or archaeologist as necessary who will assess what is required and will take action as necessary in accordance with the provisions the BURRA Charter and Australian ICOMUS.

7.5 WORK METHOD STATEMENT

At a later date the Builder will be required to provide a Work Method Statement, but at this stage it is envisaged that a loading zone in George Street will be used for the supply and delivery of materials and the removal of rubbish from the site.

Material will be manhandled to and from the same area to the building through the Ground floor of the Russell Hotel via the fire stair and the lift shaft to the upper floors of the building.

Due to the general lack of work space materials will be stored on each floor as the work progresses.

The work is proposed to be carried out during normal working hours, and no hoardings or protective barriers are likely to be required to safely effect the work.

7.6 FINALLY

There are a number of matters which have not been discussed in this report but have been addressed in the following attached supplyienty reports and drawings :

- Waste Management Plan
- Noise report
- Plan of Management (Security) to be submitted later
- Demolition Plans
- Electrical services Drawing
- Hydraulic Services Drawing
- Data and Communications Services Drawing
- BCA report
- Archaeology report
- Schedule of finishes
- Colour Schedule

8 DRAWINGS

The following drawings were submitted with this report :

690-DA-110A	Existing Ground Floor plan
690-DA-111A	Existing first and second Floor plans
690-DA-112A	Existing Attic and Roof plans
690-DA-113A	Existing Elevations
690-DA-130P	Ground and Basement floor plans and cross section
690-DA-131Q	First and Second floor plans
690-DA-132Q	Existing attic and roof plans and west elevation
690-DA-135C	Proposed elevations
690-DA-136B	Ground floor demolition plan
690-DA-137B	First and second floor demolition plan
690-DA-400B	Russell Hote Itoilet layouts, elevations and sections
690-DA-430B	Russell Hotel bar layout, elevations and sections
690-DA-431C	Russell Hotel bar layout, elevations and sections
690-DA-432B	Proposed signage
690-DA-433A	Light Well details

Jeff Madden
B.Arch.(Hons1), M.Sc.(Arch)(Cons)