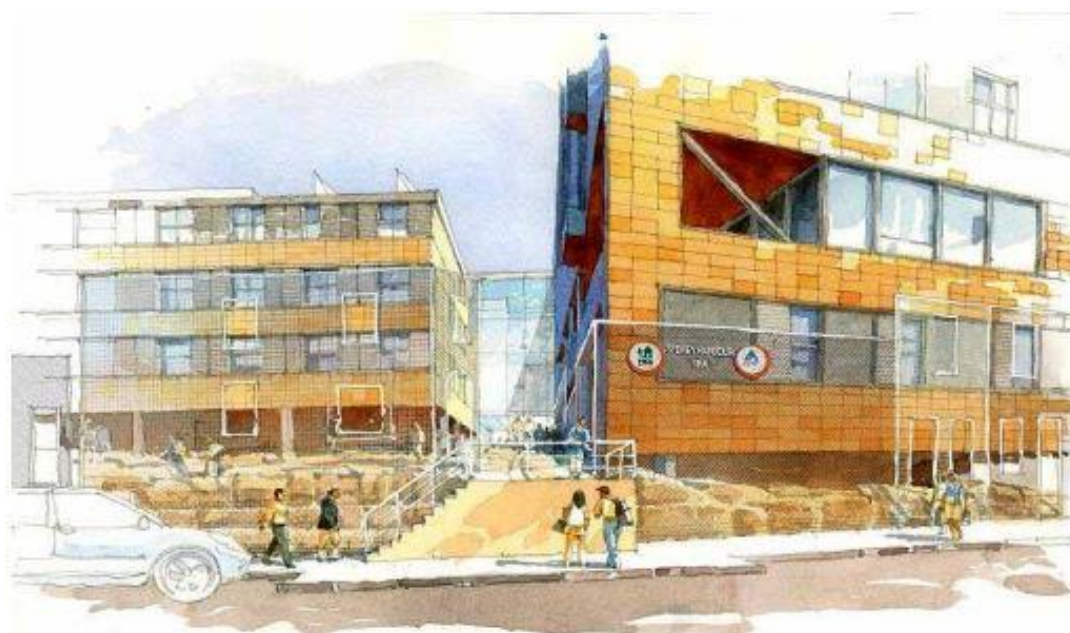




Youth Hostel and Archaeological Education Centre Modification 4

State Significant Development Modification Assessment
(MP 06-0265 MOD 4)

September 2023



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Glossary

Abbreviation	Definition
AHD	Australian Height Datum
BCA	Building Code of Australia
CIV	Capital Investment Value
CPP	Community Participation Plan
Council	City of Sydney
Department	Department of Planning and Environment
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2022
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
Heritage	Heritage NSW, Department of Premier and Cabinet
LEP	Local Environmental Plan
Minister	Minister for Planning
RMS	Roads and Maritime Services, TfNSW
Planning Secretary	Secretary of the Department of Planning and Environment
Planning Systems SEPP	State Environmental Planning Policy (Planning Systems) 2021
POM	Plan of Management
SEARs	Planning Secretary's Environmental Assessment Requirements
SEPP	State Environmental Planning Policy
SSD	State Significant Development
TfNSW	Transport for NSW
YHA	Sydney Harbour Youth Hostel

Executive Summary

Introduction

This report provides an assessment of an application seeking to modify the State Significant Development consent for the Youth Hostel and Archaeological Education Centre (YHA) located at the Rocks, Sydney. The application has been lodged by the YHA (the applicant).

The modification seeks approval to introduce an ancillary bar use, increase the hours of operation of the terraces on level 1 (currently operating till 10pm) and level 3 (currently operating till 11pm) until 12 midnight and to modify sound levels on the level 3 terrace to allow for amplified music.

The site is located within the City of Sydney local government area. The Minister for Planning is the consent authority for the application.

Engagement

The Department of Planning and Environment (Department) publicly exhibited the proposal from 25 January 2023 to 7 February 2023. In response, the Department received comments from City of Sydney Council and NSW Police. Nine public submissions were also received objecting to the application.

Council's comments related to acoustics and patron management. Public submissions raised concerns about amenity impacts stemming from noise, foot traffic, and patron behaviour.

The Applicant submitted a Response to Submissions and additional information in response to the issues raised by Council and in public submissions. Key amendments made to the proposal include a ban on music and placing a capacity limit of 25 patrons on the level 1 terrace, implementation of CCTV and a reduction in the frequency of approved special events (from 6 to 1 per year). The response also included an updated Plan of Management.

Assessment

The Department has considered the merits of the proposal in accordance with section 4.15(1) of the *Environmental Planning and Assessment Act 1979*, the issues raised in submissions and the Applicant's response.

The Department considers the proposal is acceptable for the following reasons:

- the proposed bars are permissible with consent and would provide the hostel with improved services and amenities, similar to other accommodation venues in the Sydney CBD
- the proposed bars' operating hours (10am-12 midnight Monday to Saturday and 10am-10pm Sunday) are consistent with other entertainment venues in The Rocks, including the nearby Australian and Glenmore hotels
- the increase in the operational hours of the terraces is minor, with a one hour increase being sought for the level 3 (rooftop) terrace until 12 midnight
- there is no change to permitted patron numbers (200) on the level 3 rooftop terrace
- there will be a reduction in the number of previously approved special events from six to one per year (to be held during NYE)

- the proposal is predicted to comply with the noise levels established by the City of Sydney and NSW Liquor and Gaming
- The Department recommends a suite of strict conditions to appropriately mitigate and manage the potential amenity impacts including:
 - the imposition of noise limits, including limiting noise generated by the use to 5 decibels over background noise levels till 12 midnight, and no exceedance above background noise levels after 12 midnight
 - installation of tamper-proof noise limiters to restrict any amplified noise emitted from the speakers to comply with conditioned noise limits
 - sound limits for the development to be subject to acoustic monitoring within the first three months of operation
 - that the proposal be supported by a Plan of Management that would regulate patron and noise management, complaints handling and resolution, security and any other management and mitigation measures required to prevent adverse amenity impacts
 - operational conditions regulating the bars have been updated to reflect current standards, including more robust conditioning around patron numbers, behaviour management, noise limits, machinery and plant noise, fire safety and CCTV
 - a 12-month trial period for the extended hours would further safeguard amenity.
- it is substantially the same development as the approved development and would not result in any significant environmental impacts.

Conclusion

The Department considers the proposal is consistent with the use of the site as a hostel and is consistent with the strategic planning framework for the area. The proposal and the site sit within the broader Rocks entertainment precinct and would not result in any unreasonable impacts, subject to the recommended conditions of consent.

The Department's assessment concludes that the proposal is in the public interest and recommends that the application be approved, subject to conditions.

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1 Introduction

This report provides the NSW Department of Planning and Environment's assessment of an application to modify the State significant development (SSD) consent for the Sydney Youth Hostel and Archaeological Education Centre approved in January 2008.

The modification application seeks approval to provide two new bars on levels 1 and 3, to increase the hours of operation of the terraces on levels 1 and 3 until 12 midnight, and to modify sound levels on the level 3 terrace to allow for amplified music.

The application was lodged by YHA LTD (the Applicant) pursuant to section 4.55(2) of the *Environmental Planning and Assessment Act 1979 (EP&A Act)*.

1.1 Background

The site is known as 110-128 Cumberland Street, The Rocks and hosts the Sydney Harbour YHA, which is a four-storey youth hostel with terraces on level 1 and level 3 fronting Gloucester Street (**Figures 1-3**). The site also hosts an open archaeological site known as 'The Dig' on the ground floor.

The subject site is located on the western side of Sydney Cove between Cumberland Street and Gloucester Street, The Rocks. The site is located within the City of Sydney LGA and the landowner is Place Management NSW.



Figure 1 | Site and Regional Context Map (Source: Nearmaps)

Adjoining the site to the north is the State heritage listed Australian Hotel and to the south are residential terrace buildings, including the State heritage listed Jobbins terraces. To the west is the KGV Recreation Centre, with the Cahill expressway running immediately behind and down towards the south. Directly to the east are State heritage listed residential terrace dwellings and the Susannah Place Museum (Figure 2).

The Rocks area is a significant heritage and entertainment precinct within metropolitan Sydney housing many State listed heritage items and entertainment and tourist uses, with a large number of licensed premises operating in the area.

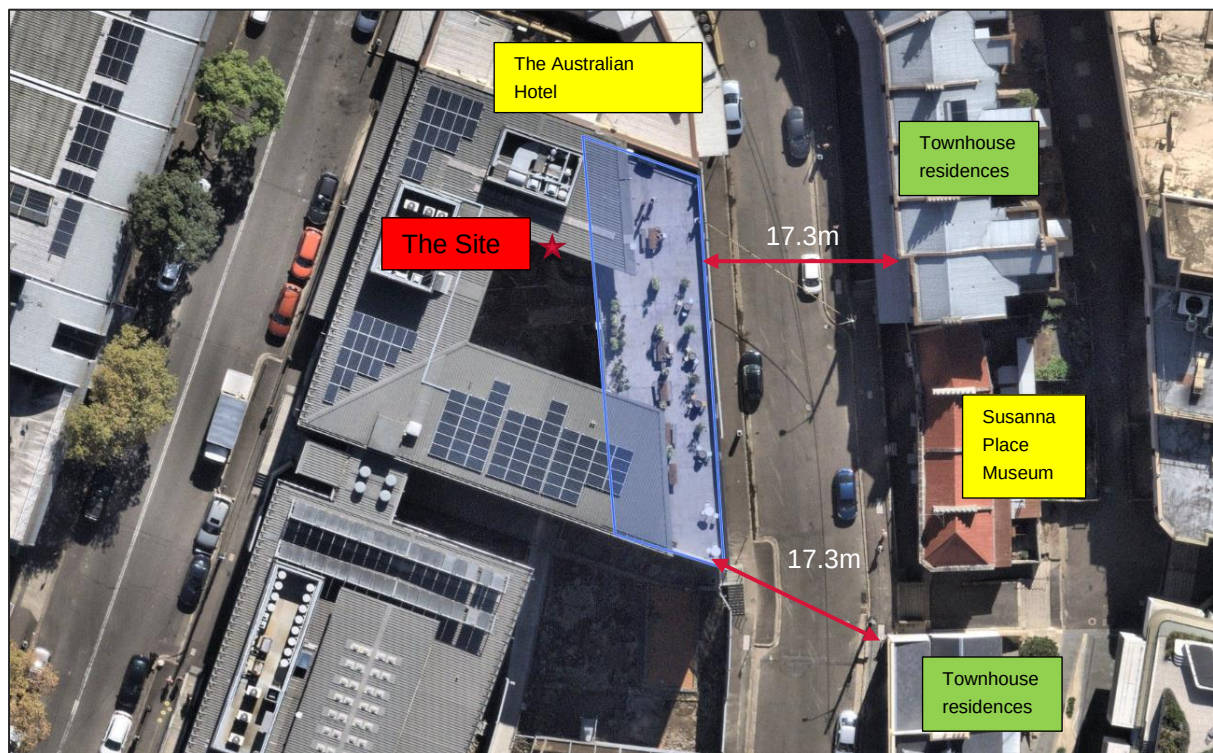


Figure 2 | Aerial view of the site, rooftop terrace outlined in blue

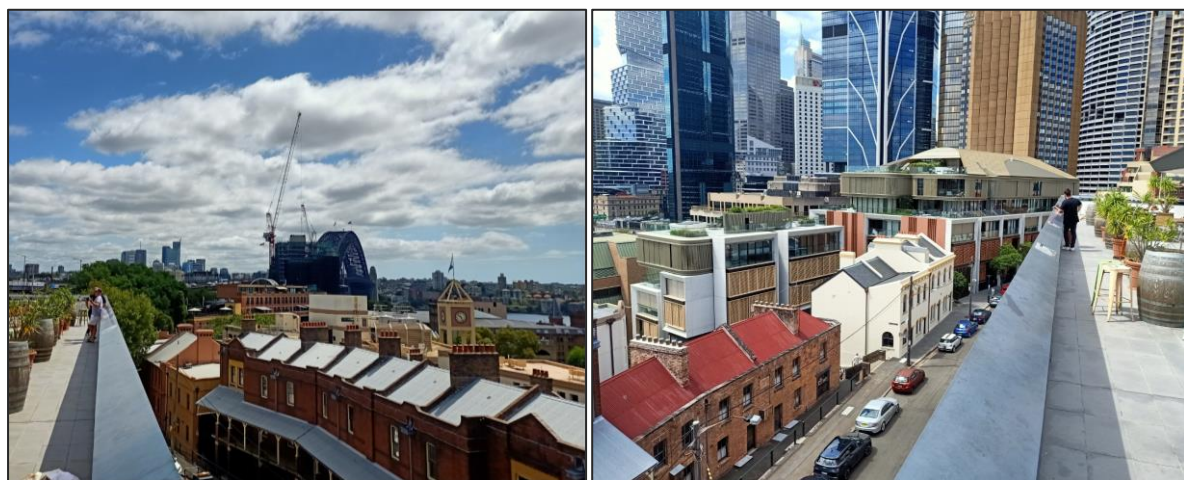


Figure 3 | Views from the level 3 terrace to the north and south respectively.

1.2 Approval history

On 23 January 2008, Project Application (MP06_0265) was approved by the then Minister of Planning for the construction of a 4-storey youth hostel containing 106 ensuite bedrooms and 354 beds, ground floor retail floor space and a single storey archaeological centre. The development as modified comprises:

- erection of an elevated 3-4 storey youth hostel presenting as 2 separate building forms to Cumberland Street, linked by internal walkways. The hostel contains terraces on levels 1 and 3 (rooftop) that front onto Cumberland Street.
- a single storey archaeological education centre in the south-eastern corner of the site
- associated site access works including stairs and landings along the Cumberland and Gloucester Street footpaths and re-instatement of internal laneways
- decorative metal screens along the footpath level on Cumberland and Gloucester Streets

The Youth Hostel has been constructed and is in operation in accordance with the modified consent. The development consent includes the following conditions relevant to the application:

- Condition G3 – relating to the operation of the terraces, including hours, management of behaviour, maximum decibel levels and exemptions for special events.

The development consent has been previously modified on three occasions (see **Table 1**). As Part 3A transitional provisions are over, the project approval has been transitioned to SSD and the proposal can only be modified under section 4.55 of the EP&A Act.

Table 1 | Summary of Modifications

Mod No.	Summary of Modifications	Approval Authority	Type	Approval Date
MOD 1	Change the height and configuration of the rooftop plant	Department	Section 75W	26 April 2009
MOD 2	Construct a pergola and increase height of the balustrade by 200mm at the Level 3 rooftop terrace	Department	Section 75W	22 November 2011
MOD 3	Extension of hours of operation for level 3 rooftop terrace	Department	Section 75W	29 July 2015

2 Proposed modification

The proposal seeks approval to make the following amendments:

- introduce a new bar area on level 1 and 3 for use to allow for sale of alcohol to occupants of the hostel (hours of operation – 10am to 12 midnight Monday to Saturday, and 10am to 10pm Sunday).
- extend the hours of operation to the level 1 (currently 10pm) and level 3 terraces (currently 11pm) till 12 midnight
- play amplified live music till 10pm on the level 3 terrace
- play amplified background music till 12 midnight on the level 3 terrace.
- reduce the approved special events from six to one. The one event will be on New Year's Eve.

The proposal seeks to extend the hours of operation of the roof top terraces to provide greater services and amenities for patrons of the hostel. The proposal does not seek consent for the fit-out of the bars, which will be subject to a separate application to the City of Sydney. No physical works are proposed as part of this application.

The level 1 and level 3 areas are shown in **Figures 4-8**. The proposed changes to Condition G3 relating to hours of operation, music and special events are outlined in **Table 2**.

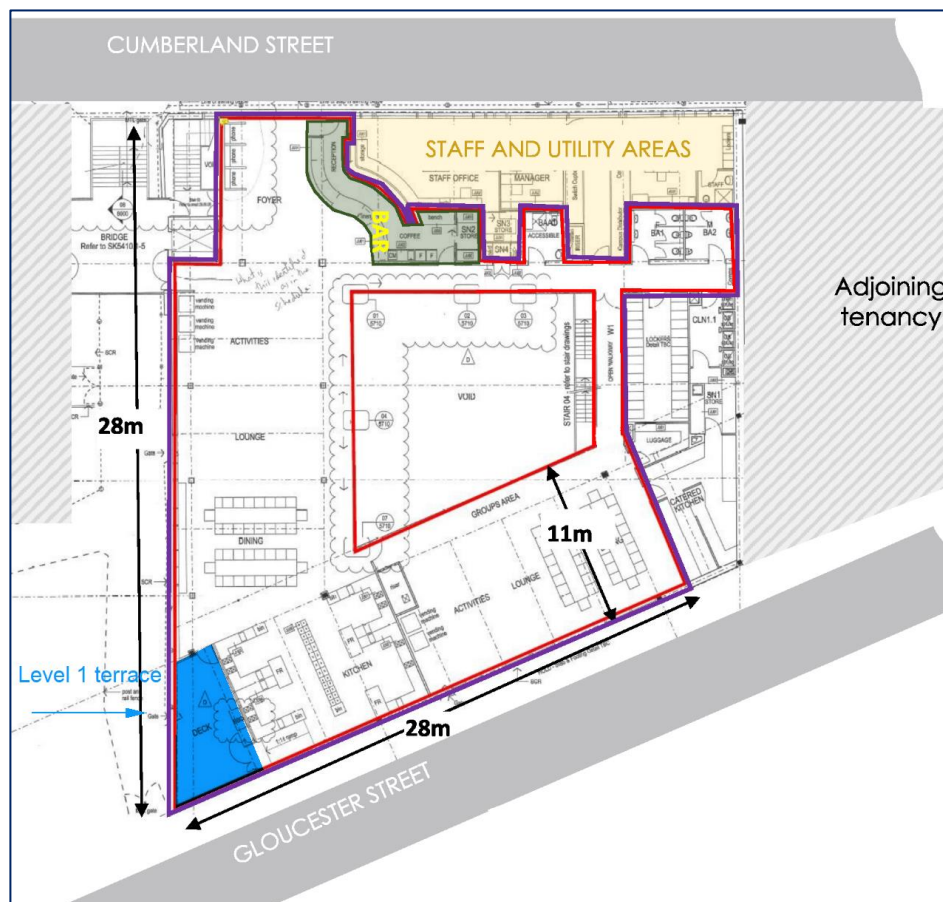


Figure 4 | Level 1 licensing area outlined - terrace highlighted in blue, proposed bar area highlighted in green

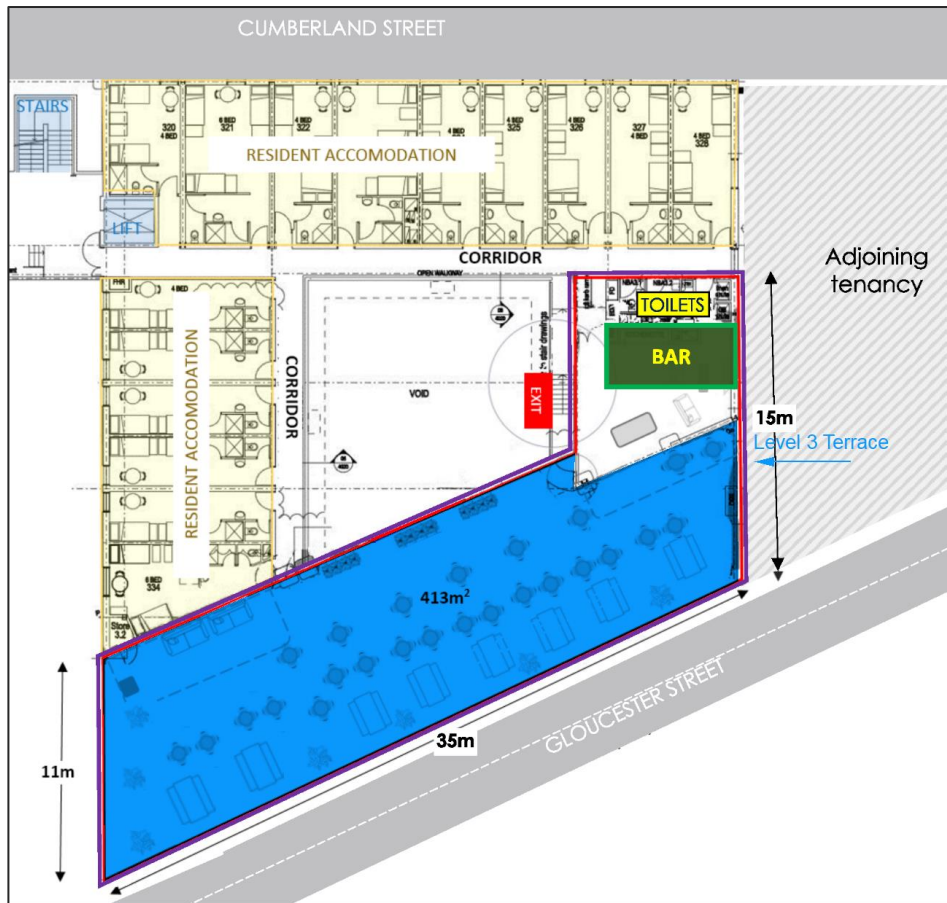


Figure 5 | Level 3 licensing area and bar outlined - terrace highlighted in blue, proposed bar area outlined in green

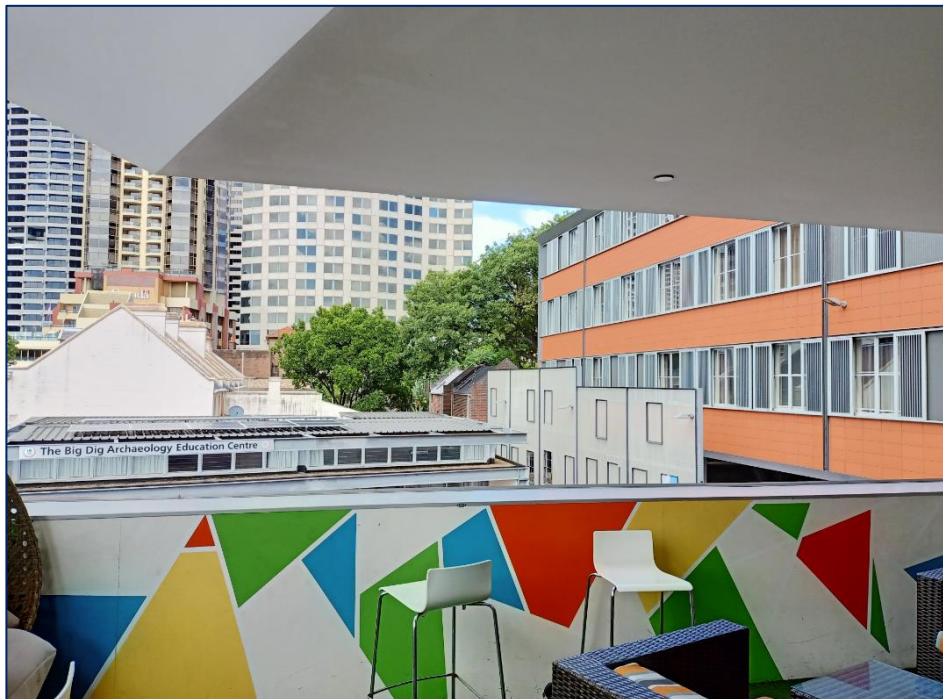


Figure 6 | View of level 1 terrace



Figure 7 | View of the level 3 terrace



Figure 8 | Proposed location of level 3 bar

Table 2 | Existing and Proposed Operational Requirements for terraces

Controls	Level 1	Level 3	Proposed
Patron limits (Condition G3)	No limit	200 patrons 40 patrons between 5am and 7am	- Level 1 – 25 patrons - Level 3 – 200 patrons
Hours of operation (Condition G3)	Till 10pm	5am to 11am	- Level 1 – 7am to midnight - Level 3 – 5am to midnight
Live Music (Condition G3)	Music to cease by 6pm	Only permitted with the prior approval of SHFA (Now Place management NSW)	- Level 1 – No music - Level 3 – Live music allowed through installed speakers (fitted with noise limiters) till 10pm. Not to exceed 60dB(A) L₁₀ measured at any boundary of the rooftop terrace.
Background Music (Condition G3)	Music to cease by 10pm	Music permitted till 10:45pm. Not to exceed spatially averaged sound pressure level of 60dB(A) L₁₀ , measured at the eastern and southern edges of the terrace.	- Level 1 – No music - Level 3 – Background music from 10pm to 11:45pm. Not to exceed spatially averaged sound pressure level of 75dB(A) L₁₀ at any point of measurement on the terrace.
Other restrictions (Condition G3)	-	- Noisy behaviour not allowed on terrace, with signage and management protocols required - Only passive activities allowed between 5:00am and 7:00am	- More robust Plan of Management governing patron behaviour for both terraces - Level 3 - No change to the early morning passive activities
Special events (Condition G3)	6 events permitted through the calendar year which allows the terraces to operate till 1am		One event (NYE) permitted which allows the terraces to operate till 1am

3 Statutory context

3.1 Scope of modifications

The Department has reviewed the scope of the modification application and considers that the application can be characterised as a modification involving minimal environmental impacts as the proposal:

- would not significantly increase the environmental impacts of the project as approved
- is substantially the same development as originally approved; and
- would not involve any further disturbance outside the already approved disturbance areas for the project.

Therefore, the Department is satisfied the proposed modification is within the scope of section 4.55(2) of the EP&A Act and does not constitute a new development application. Accordingly, the Department considers that the application should be assessed and determined under section 4.55(2) of the EP&A Act rather than requiring a new development application to be lodged.

3.2 Consent authority

The Minister for Planning is the consent authority for the application under section 4.5(a) of the EP&A Act. However, under the Minister's delegation, the Director, Key Sites Assessments, may determine the application under delegation as:

- a political disclosure statement has not been made
- there are less than 15 public submissions by way of objection
- Council does not object.

3.3 Mandatory matters for consideration

The following are relevant mandatory matters for consideration:

- section 4.55(2) of the EP&A Act, including environmental planning instruments or proposed instruments
- EP&A regulation
- likely impacts of the modification application, including environmental impacts on both the natural and built environments, and social and economic impacts
- suitability of the site
- any submissions
- the public interest
- the reasons for granting approval for the original application.

The Department conducted a comprehensive assessment of the project against the mandatory matters for consideration as part of the original assessment for MP 06-0265. The Department considers this modification application does not result in significant changes that would alter the mandatory matters for consideration under section 4.15 of the EP&A Act and conclusions made as part of the original

assessment. The Department has considered any other relevant matters in **Section 5** and **Appendix B**.

3.4 Part 3A transition to State significant development

This project was originally approved under the former section 75J of the EP&A Act and was a transitional Part 3A project under Schedule 2 of the Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017 (EP&A (ST&OP) Regulation).

Following amendments to the EP&A Act and the commencement of the associated EP&A (ST&OP) Regulation on 1 March 2018, the power to modify Part 3A project approvals under former section 75W is no longer available for modifications submitted after 1 March 2018.

The Minister has declared the development to be SSD by order under clause 6 of Schedule 2 of the EP&A (ST&OP) Regulation. The project approval has become a development consent which can be modified under section 4.55 of the EP&A Act.

4 Engagement

4.1 Department's engagement

In accordance with Schedule 1 to the EP&A Act, the Department publicly exhibited the application on the NSW Planning Portal from 25 January 2023 to 7 February 2023.

A public exhibition notice was placed on the NSW Planning Portal and the application was notified to adjoining landowners, previous objectors, Council and NSW Police.

4.2 Summary of submissions

In response to the exhibition of the application, the Department received 11 submissions, comprising:

- submission from NSW Police providing comments (lodged after exhibition)
- submission from Council providing comments
- nine submissions from the public, including seven objections, one comment and one in support.

4.3 Key Issues – Government agencies

The Department received submissions from the NSW Police. A link to the submissions is provided in **Appendix A** and key issues raised are summarised in **Table 3**.

Table 3 | Summary of Agency Advice

NSW Police	
RtS	NSW Police reviewed the amended documents and provided the following comments: • there have been no recorded adverse incidents of violence in the immediate vicinity of the site according to police data. However, the broader Sydney LGA has a high concentration of alcohol related assaults. • the Plan of Management provides adequate measures to curb alcohol related events. • when the venue aims to trade past midnight (NYE special event), security should be engaged • the Applicant should consider joining the local liquor accord, pertinent to the premises location. • compliance with the Plan of Management should be a condition of consent.

4.4 Key Issues – Council and Community

4.4.1 Council key issues

Council provided comments as summarised in **Table 4**.

Table 4 | Summary of Council submission

City of Sydney	
Modification application	Council provided the following comments on the original submission: • requested clarification on the acoustic report, to ensure that it captures all noise generated by the proposed use, including live music • requested updates to the Plan of Management to include details around security, noise management, floor plans, CCTV, potential special events and responsible service of alcohol.
RtS	Council reviewed the amended documents and recommended the following conditions: • compliance with the City's noise criteria, including recommendations to limit noise impact from the level 3 terrace • no music to the Level 1 terrace and a capacity limit to this area • requirements for security when capacity exceeds 150 people or when live entertainment is provided • requirements for CCTV • controls be put in place to prevent liquor from being removed from licenced areas and recommended that the extended hours be approved on a trial basis.

4.4.2 Community key issues

The Department received nine submissions from members of the public in response to the exhibition. One submission was in support, one was a comment and seven were in objection. The issues are summarised in **Table 5** below.

Table 5 | Summary of issues raised in public objections

Issue	Comments
Noise	• Gloucester Street is residential and noise from local bars reduces at around 10pm, which reduces impacts to residents • late night music will affect residents who have windows open for ventilation • youth hostels will have a younger/transient clientele who are more likely to 'party' and generate noise

- the potential noise until 12 midnight can affect the quality of life and mental health of the residents on Gloucester Street
- noise from the existing terraces already travels to surrounding residences, previous events of the terraces have caused noise impacts
- the proposed hours are excessive
- could set a precedent for the Australian hotel to also seek an extension to trading hours

Behaviour

- raised concerns about partying and undesirable patron behaviour
 - large groups of patrons can wander through the residential area of Gloucester Street and cause impacts
-

4.5 Response to submissions

On 26 April 2023, the Applicant provided a Response to Submission (RtS) to the submissions from Council, government agencies and members of the public. The RtS included the following:

- an updated noise impact assessment and Plan of Management
- CCTV plans for the licenced areas
- an emergency procedures manual
- floor plans of the licenced areas on level 1 and 3
- a response from liquor licensing consultants.

The Applicant provided additional information on 22 May 2023, which seeks approval to reduce the current approved special events **Condition G3(4)** from six events per year to one per year, to celebrate NYE. The Applicant also agreed to not play any music on the level 1 terrace and to place a capacity limit of 25 persons on this terrace.

The RTS and all additional information was made available on the Department's website.

5 Assessment

In assessing the merits of the proposal, the Department has considered:

- the modification application and associated documents
- the Environmental Assessment and conditions of approval for the original application (as modified)
- all submissions received on the proposal and the Applicant's additional information
- relevant environmental planning instruments, policies and guidelines
- the requirements of the EP&A Act

The key issues associated with the proposal relate to potential noise impacts and the proposed hours of operation.

5.1 Noise and hours of operation

The proposed bars would operate 10am-12 midnight Monday to Saturday and 10am-10pm on Sunday. While the bars are internal, the proposed licensed areas will also include the level 1 and level 3 terraces. The areas (including the terraces) would continue their hostel function after the close of the bars, providing a common space for guests to congregate and relax in.

The proposal seeks an extension to the hours of the level 1 (currently 10pm) and level 3 (currently 11pm) terraces until 12 midnight. The proposal also seeks to extend background music on the level 3 terrace until 12 midnight to align with the new hours and to play amplified live music till 10pm.

The existing consent currently allows for music on the level 1 terrace until 6pm and background music until 10pm, with background music allowed on the level 3 terrace until 11pm, in line with the existing operational hours. The application proposes no music on the level 1 terrace to reduce the potential for amenity impacts.

A summary of the existing and proposed operational controls for music is provided in **Table 6**.

Table 6 | Current and proposed operational requirements around music

	Live music	Background Music
Terrace 1	Until 6pm (current)	Until 10pm (current)
	No music (proposed)	No music (proposed)
Terrace 3 (rooftop)	Only permitted with the prior approval of SHFA (current)	Until 11pm (not exceeding 60dB(A) _{L10} at the terrace edge) (current)
	Until 10pm (not exceeding 80dB(A) _{L10} measured 1m from the speaker and 60	Until 12 midnight (not exceeding 75 dB(A) _{L10} at any point of

dB(A)L₁₀ at terrace edge)
(proposed)

measurement on the terrace)
(proposed)

The Department notes existing conditions limit the rooftop terrace to 200 patrons and no change is proposed. There is currently no patron capacity limit for the level 1 terrace.

The Department notes that public submissions raised concerns about noise amenity impacts stemming from the increased hours of operation for the level 3 terrace and the introduction of live music.

The proposal was accompanied by a noise impact assessment (NIA). However, the Department and City of Sydney requested further information about cumulative noise emissions, clarification of background noise levels and hours of operation, specific recommendations for the amplified music system and acoustic treatments, and additional noise mitigation measures.

The updated NIA included three of the closest residential receivers (**Figure 9**) from the site and assumed a maximum capacity of the terrace of 200 people with live music playing until 10pm and background music until 12 midnight.

The updated NIA found that the proposal would comply with the noise emission requirements from both the City of Sydney and NSW Liquor and Gaming which requires that L₁₀ noise levels (the weighted noise level in the top 10 percentile of the sampling interval) emitted from the development not exceed 5db above the background sound level. The Department notes the predicted noise levels at all three residential receivers were below the noise emission requirements (**Table 7**).

Table 7 | Noise limits based off background levels in the Applicant's NIA

Time of Day	NIA background noise levels dB(A)L ₉₀	Residential noise criteria dB(A)L ₉₀ + 5 dB	Predicted Noise Level dB (A) L ₁₀ R1	Predicted Noise Level dB (A) L ₁₀ R2	Predicted Noise Level dB (A) L ₁₀ R3
6pm to 10pm	56	61	49	57	57
10pm to 12am	55	60	47	56	55

The revised NIA also found that acoustic compliance would be achieved, subject to the following requirements:

- speakers to be vibration isolated and oriented away from residential dwellings on Gloucester Street
- all amplified live music to be played through installed speakers limited until 10pm
- decibel limits on both live and background music
- no drum kits or similar percussive instruments allowed on the outdoor terrace

- windows to level 1 terrace to be closed where possible
- noise monitoring and management practices, including signage and complaints handling.



Figure 9 | Subject site and nearby acoustic receivers – red and yellow dots show locations of noise monitoring - Source: Applicant's Noise Impact Assessment

Clarification was also sought regarding the proposed changes to the decibel control, from 60dB(A)L₁₀ measured at the terrace edge, to 75 dB(A)L₁₀ measured at any point on the terrace, for background music played after 10pm (**Table 6**).

The Applicant's engineer clarified that the levels would still result in an equivalent noise control, given that a measurement of 75db(A)L₁₀, measured at any point on the terrace, would include measurements taken right in front of the speaker where noise emitted would be highest. This would result in an equivalent decibel level to 60db(A)L₁₀, measured at the terrace edge. As such, there would be no audible change in acoustic amenity between the two limits.

Nonetheless, in order to preserve consistency with the previous consent and with the proposed requirement for live music, both of which require a 60dB(A)L₁₀ level measured at the terrace edge, the Department will maintain this 60dB(A)L₁₀ limit, measured at the terrace edge, for background music played after 10pm. This will ensure that there will be no change to the maximum sound levels emitted past the terrace, despite the introduction of amplified music.

The RtS also included an updated POM that has more robust controls around potential noise impacts including:

- maintaining a complaints register and taking any remedial action as necessary
- staff monitoring of patron behaviour
- removal of disruptive patrons
- waste removal (including bottles) outside of the night-time period

Council accepted the findings of the revised NIA, and recommended the following conditions:

- a 12-month trial period for the extended hours of operation
- patron capacity limits on the level 1 and level 3 terraces
- noise limits that cap the noise level to 5dB above background noise till 12 midnight
- installation of noise limiters

The Department has carefully considered the concerns raised in submissions, the NIA and the Applicant's response to the submissions. The Department considers that the hours of operation of the bars and increase in the terrace operating hours and music is acceptable as:

- the NIA demonstrates that predicted noise levels can comply with the criteria established by the City of Sydney and NSW Liquor and Gaming
- noise limits will remain the same as the existing consent, capped at a maximum of 60dB(A)_{L₁₀} level, measured at the terrace edge
- predicted noise levels at the three residential receivers during all hours will comply with the L₁₀ residential noise criteria for all octave frequencies
- all music will be played through speakers with noise limiters that will be positioned away from residences
- the controls governing the level 1 terrace will be tightened further through the imposition of a 35-person capacity limit and a ban on music
- the increase in the hours of operation of the terraces is minor, with an additional hour for the rooftop terrace and two hours for the smaller level 1 terrace
- a robust Plan of Management would have stringent controls to monitor and manage noise impacts
- there would be a reduction in special events from six to one per year.

On this basis, the Department concludes the proposed increase in sound levels is unlikely to cause unacceptable noise impacts on nearby receivers. However, as a safeguard and noting that the fit-out for the proposed bars will take place under a separate consent, the Department considers that the hours of operation and the sound limits for the terraces be subject to a 12-month trial period.

The Department therefore additionally recommends the following conditions:

- require acoustic monitoring during the first three months of operation of the space to ensure compliance with noise limits and/or any additional measures required to the satisfaction of the Planning Secretary
- require a detailed POM, prepared in consultation with Council and submitted to and approved by the Planning Secretary to ensure that appropriate measures are in place to mitigate and manage noise impacts
- require that the recommendations of the NIA be adhered to at all times
- requirements to install and maintain noise limiters for any sound system

- maximum noise level criteria that complies with City of Sydney requirements
- conditions regulating glass disposal to prevent amenity impacts
- conditions regulating patron entry and exit to the venue and behaviour on terraces.

Management of the premises

Public submissions raised concerns about patron behavior and increased foot traffic within local streets. The submissions also noted there are multiple venues serving alcohol in The Rocks and suggested that patrons of the YHA could simply attend one of them instead.

The Department subsequently requested the Applicant further clarification about the management and mitigation of potential liquor-related impacts. This included details around responsible service of alcohol (including prevention of underage drinking and secondary supply), provision of CCTV, provision of security and trained staff and incident management protocols.

In the RTS, the Applicant provided a detailed Plan of Management addressing:

- staff requirements, including RSA training
- security, with the intention to provide security at a ratio of one guard to 200 patrons (for occasional functions)
- CCTV – including maintaining recordings for a 30-day period and ensuring accessibility to authorities
- provision of signage
- protocols to ensure responsible service of alcohol, including preventing underage drinking, secondary supply and refusal of service.

The City of Sydney reviewed the plan and recommended the following updates:

- controls to prevent liquor from being removed from licensed areas to accommodation areas
- providing security at the industry standard of one guard per 100 patrons.

NSW Police reviewed the RTS and recommended the following requirements:

- that security be provided when the venue traded past 12 midnight (for any 'special events')
- that the Applicant joins the local liquor accord.

The Department notes that the YHA has operated responsibly in the past, with no recorded adverse incidents of violence in the immediate vicinity of the site according to police data and Department's compliance team.

The Department considers the proposed management of the proposed bars would be acceptable and recommends the following conditions:

- a detailed POM, prepared in consultation with Council and submitted to and approved by the Planning Secretary to ensure that the requirements for security and RSA are met. The POM will be conditioned to include:
 - patron management practices to ensure that patron limits within the terraces are adhered to
 - management protocols for any ticketed events or functions run by the YHA, including maintaining records of patron numbers and ensuring that any operational requirements of the consent are complied with

- providing and managing security, including incident recording and handling
 - evidence of joining the local liquor accord
 - security requirements in consultation with Council.
- not permitting queuing and spruiking of noise outside the hostel
- prevent anti-social behaviour on the terraces and outside the hotel
- require proper incident recording and notification
- restricting the sale and consumption of alcohol to licensed areas of the premises only
- a condition requiring that the Applicant joins the local liquor accord.

6 Evaluation

The Department has reviewed the proposed modification, advice from Council and NSW Police, submissions received and supporting information in accordance with the relevant requirements of the EP&A Act. The Department's assessment concludes that the proposal is acceptable for the following reasons:

- the introduction of bars is permissible and the hostel will continue providing tourist and visitor accommodation
- the hours of operation of the bars are reasonable and will be restricted to 10am-12 midnight Monday to Saturday and 10am-10pm Sunday
- the increase in the operational hours of the terraces is minor, with a one hour increase being sought for the primary level 3 (rooftop) terrace until 12 midnight
- the proposal is predicted to comply with the noise levels established by the City of Sydney and NSW Liquor and Gaming
- increased hours of operation and the sound limits for the level 3 terrace will be subject to acoustic monitoring within the first three months of operation and a 12-month trial period to prevent any adverse impacts to the neighbourhood
- the imposition of strict noise conditions, including limiting noise generated by the use to 5 decibels over background noise levels till 12 midnight, and no exceedance above background noise levels after 12 midnight would ensure the amenity of surrounding receivers is maintained
- noise limiters which will restrict any amplified noise emitted from the speakers to comply with conditioned noise limits
- there is no change to permitted patron numbers (200) on the level 3 rooftop terrace and there would be a new 35-person limit on the level 1 terrace
- there will be a reduction in the number of previously approved special events from six to one per year (to be held during NYE)
- a detailed Plan of Management will establish further operational details around patron and noise management, complaints handling and resolution, security and any other management and mitigation measures required to prevent adverse amenity impacts
- it complies with relevant EPIs and is substantially the same development as the approved development and would not result in any adverse environmental impacts.

Consequently, the Department considers the modification to be in the public interest and should be approved, subject to the recommended modified and new conditions of consent.

7 Recommendation

It is recommended that the Acting Director, Key Sites Assessments, as delegate of the Minister for Planning and Public Space:

- **considers** the findings and recommendations of this report
- **determines** that the application MP 06-0265 MOD 4 falls within the scope of section 4.55(2) of the EP&A Act
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to approve the modification
- **agrees** with the key reasons for approval listed in the draft notice of decision
- **modify** the consent MP 06-0265
- **signs** the attached approval of the modification (**Appendix D**).

Prepared and recommended by:



Janith De Silva
Planning Officer
Key Sites Assessments

8 Determination

The recommendation is **Adopted/Not Adopted** by:

A handwritten signature in blue ink, appearing to be 'CS', is written over a faint yellow rectangular background.

8.09.2023

Cameron Sargent

Acting Director

Key Sites Assessments

as delegate of the Minister for Planning and Public Spaces

Appendices

Appendix A – List of referenced documents

The following supporting documents and supporting information to this assessment report can be found on the Major Project's website as follows:

- Modification Report
- Submissions
- Response to Submissions.

<https://www.planningportal.nsw.gov.au/major-projects/projects/youth-hostel-mod-4-extension-operating-hours>

Appendix B – Statutory considerations

Matters for Consideration under Section 4.55(2)

A consent authority may modify the consent if it is satisfied the proposed modification application meets the requirements of section 4.55(2) of the EP&A Act. An assessment of the proposed modification application against the requirements of section 4.55(2) of the EP&A Act is included in **Table 1** and **Table 2**.

Table 1 | Consideration of matters under 4.55(2)

Section 4.55(2)	Assessment
(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	The Department is satisfied the proposed modifications would result in the development being substantially the same as the development originally approved.
(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and	The Department referred the application to both Council and NSW Police as part of the engagement process. No other public authorities were required to be notified. Full details of the engagement undertaken are provided in Section 4 of the report.
(c) (c) it has notified the application in accordance with— (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and.	The modification application has been notified in accordance with the EP&A Regulation. Details of the notification are provided in Section 4 of this report.
(d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.	Details of the submissions received during the notification period are provided in Section 4 of this report.

Table 2 | Consideration of relevant matters under s4.15

Matter	Comment
(a)(i) any environmental planning instrument	The proposal complies with relevant EPIs as addressed in this report.
(a)(ii) any proposed instrument	The proposal complies with relevant draft EPIs.
(a)(iii) any development control plan	Under clause 2.10 of the Planning Systems SEPP, Development Control Plans do not apply to SSD.
(a)(iia) any planning agreement	Not applicable.
(a)(iv) the regulations	The requirements of <i>Environmental Planning and Assessment Regulations 2021</i> (Regulation) apply. The modification application satisfactorily meets the relevant requirements of the Regulation.
(b) the likely impacts of that development including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,	The Department considers the likely impacts of the proposed modification are acceptable and have been appropriately addressed (Section 5).
(c) the suitability of the site for the development	The site is suitable for the development.
(d) any submissions	The Department has considered the submissions received (Section 4 and 5).
(e) the public interest	The Department considers the proposed modification to be in the public interest.
Reasons given by the consent authority for the grant of the consent that is sought to be modified.	The Department has considered the reasons given by the consent authority for the grant of the consent in its assessment in Section 5 .

Environmental Planning Instruments

To satisfy the requirements of section 4.15(1)(a)(i) of the EP&A Act, the Department has considered the relevant SEPPs as part of its assessment of the proposal and is satisfied that the proposal does not result in any inconsistency with relevant EPIs. The following EPIs are relevant to the application:

- *Sydney Cove Redevelopment Authority Scheme (SCRA Scheme)*
- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Industry and Employment) 2021*
- *State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021*

Appendix C – Community views

A summary of the Department's consideration of issues raised in submissions is provided in **Table 1**:

Table 1 | Department's consideration of key issues raised in public submissions

<i>Issue</i>	<i>Consideration</i>
<i>Noise (Council and community issue)</i>	<i>Assessment</i>
- amenity impacts - sleep disturbance impacts - Compliance with the City of Sydney's noise criteria	- The Applicant's noise assessment concluded noise emissions from music (i.e: the sound levels of external speakers) and the increased hours of operation for the terraces can comply with the City of Sydney's and NSW Liquor and Gaming's noise emissions criteria. - The Department has carefully considered the Applicant's supporting noise assessment, additional information and the concerns raised in public submissions and is satisfied the proposed changes will not result in adverse amenity or sleep disturbance impacts at surrounding receivers. - The modification now includes a capacity limit for the level 1 terrace, with a prohibition on any music being played on this terrace - The Department notes the development would be subject to a detailed operational management plan, which will include measures to control noise, including patron management, signage, and a complaint handling and management procedure. - The Department further notes that any speakers will face away from residences and be fitted with noise limiters.
	<i>Conditions</i>
	- Hours of operation for the bars to be restricted to 10am to 12 midnight Monday to Saturday and 10am to 10pm on Sunday. - Require the Applicant to submit a detailed Plan of Management, prepared in consultation with Council and approved by the Planning Secretary prior to the commencement of the extended hours of operation. - Impose strict noise limits on the consent that ensure compliance with City of Sydney's and NSW Liquor and Gaming's noise emissions criteria - Require the Applicant to undertake noise monitoring within the first three months of operation of the space to determine its compliance with the noise criteria under the development consent. - Allow the increased sound levels and increased hours of operation for the terraces on an initial 12-month trial period. - Require the Applicant operate the venue in accordance with the recommendations of the noise assessment and the detailed plan of management.
<i>Patron behaviour and Security (Council and community issue)</i>	<i>Assessment</i>
- increased foot traffic - disorderly conduct - Responsible service of alcohol - Managing operational impacts from the terraces	The Applicant has provided a Plan of Management that has satisfied both Department and the City of Sydney that the venue can operate with minimal impacts to the surrounds. It is noted that the patron numbers and management of the terraces will be further improved with this consent which should reduce potential impacts.

- Consideration was given to the responsible of alcohol.
- The Department notes that impacts can be managed, subject to conditions of consent, including restrictions on the service alcohol to authorised areas, patron management, and an updated Plan of Management which includes measures around potential secondary supply, underage supply and RSA training for staff. It is further noted that the Applicant must comply with separate conditions that would address potential impacts from alcohol service, with any liquor licence they later acquire.

Conditions

- the preparation of a detailed Plan of Management governing patron behaviour and liquor service prepared in consultation with Council for the endorsement of the Planning Secretary prior to the commencement of the extended hours of operation.
- conditioning CCTV and provision of security
- conditions governing patron behaviour at entry and exit to prevent queuing, disorderly behaviour and spruiking music
- conditions governing waste management including bottle disposal

Heritage

- impacts to the heritage listed residential dwellings on Cumberland Street

Assessment

- The proposal does not include any physical works to the existing hostel, which is not heritage listed.
- The proposal is not considered to have any heritage impacts on dwellings on Cumberland Street.

Conditions

- *No additional conditions required.*

Appendix D – Instrument of Modification

The Instrument of Modification can be found at the Department of Planning and Environment's website as follows:

<https://www.planningportal.nsw.gov.au/major-projects/projects/youth-hostel-mod-4-extension-operating-hours>