



RESPONSE TO SUBMISSIONS



OLD CLARE HOTEL 20-24 BROADWAY & 1-3 KENSINGTON STREET, CHIPPENDALE SECTION 75W AMENDMENT OF INSTRUMENT OF APPROVAL MP 11_0089

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Background

This Response to Submissions has been prepared in support of an application pursuant to Section 75W of Part 3A of the Environmental Planning and Assessment Act 1979. Submissions have been lodged by the City of Sydney Council and several residents of buildings surrounding the site.

In February 2007, a Concept Plan (MP 06_0171) was approved by the Minister for Planning, enabling redevelopment of the former Carlton United Brewery site for residential, commercial and retail use, and public open space. This concept plan was subsequently modified on 18 July 2007, 5 February 2009, 16 May 2010, 30 August 2011, 24 July 2012, 31 July 2012, and 17 January 2013.

City of Sydney

The City of Sydney has raised issues pertinent to the Plan of Management, urban design and liquor licensing matters. In response, the Plan of Management has been revised (and is found at [Attachment 1](#)) to specifically address all Council's concerns including:

- Staffing numbers to be addressed;
- Security personnel numbers;
- Control measures for managing patrons within the premises and when leaving at close of trade;
- Control measures for managing patrons utilising the rooftop area;
- A copy of the House Policy to be included with the Plan of Management;
- Provide details of other late trading venues within 200m radius; and
- The licensee/manager to sign the Plan of Management.

Urban design matters pertinent to the design of the pergola structure have been addressed by John Chesterman, architect for the proposal, and his response is found at [Attachment 2](#).

Liquor licensing matters pertinent to the roof top bar have been addressed by Grant Cusack, Solicitor for the proposal, and his response is found at [Attachment 3](#).

Public Submissions

The public submissions made in response the exhibition of the application raise two issues specifically. These issues pertain to noise nuisance which may arise because of the use of the roof top bar and associated visual privacy concerns.

The application only seeks consent for the development of a 98 square metre structure above an existing approved rooftop pool terrace including three toilets (WCs), within Block 3A, Central Park (Carlton United Brewery's Former Administration Building and the Old Clare Hotel).

The primary purpose of the proposed structure is to provide an [acoustic enclosure](#) that shelters the residential tower to the west from noise generated by patrons that frequent the existing approved bar and adjacent rooftop terrace.

The proposal also seeks to formalise and regulate the approved use of the bar area, creating a framework around access from the public, hours and noise. Whilst the rooftop terrace and bar area has been formally approved by the Minister, and by Council in its endorsement of plans which also show the bar area, there are currently no conditions of consent which manage the capacity, hours of use, or regulate noise impacts on surrounding residents.

To regulate the use and to minimise the potential impacts of operation, proposed is to:

- Limit the capacity of the rooftop bar to 150 patrons;
- Limit the hours of operation of the rooftop to between 7.00am and 10.00pm, 7 days. Notwithstanding these hours, it is proposed to restrict the sale of alcohol to between 12.00midday and 10.00pm, 7 days;
- Require the development to comply with the requirements of the Acoustic Assessment report commissioned by the applicant, with respect to noise and treatment of the roof structure, as well as comply with the submitted Plan of Management.

Acoustic Impact

WSP | Parsons Brinckerhoff was engaged to carry out an acoustic impact assessment of the operation of the rooftop bar area. The purpose of this assessment was to provide an acoustic impact assessment in support of the Development Application for the rooftop bar and to show how the proposal can comply with the Condition of Consent in Schedule 1A of DA 2014_1509, which applies to the food and drink premises on the site:

(21) NOISE – ENTERTAINMENT VENUES

(a) The LA10, 15 minute noise level emitted from the use must not exceed the background noise level (LA90, 15 minute) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) by more than 5 dB between the hours of 7.00am and 12.00 midnight when assessed at the boundary of any affected residence.

(b) The LA10, 15 minute noise level emitted from the use must not exceed the background noise level (LA90, 15 minute) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) between the hours of 12.00 midnight and 7.00am when assessed at the boundary of any affected residence.

(c) Notwithstanding compliance with (a) and (b) above, noise from the use when assessed as an LA10, 15 minute enters any residential use through an internal to internal transmission path is not to exceed the existing LA10, 15 minute (from external sources including the use) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) when assessed within a habitable room at any affected residential use between the hours of 7.00am and 12.00 midnight. Where the LA10, 15 minute noise level is below the threshold of hearing, T_f at any Octave Band Centre Frequency as defined in Table 1 of International Standard ISO 226 : 2003 – Normal Equal-Loudness-Level Contours then the value of T_f corresponding to that Octave Band Centre Frequency shall be used instead.

(d) Notwithstanding compliance with (a), (b) and (c) above, noise from the use must not be audible within any habitable room in any residential use between the hours of 12.00 midnight and 7.00am. (e) The LA10, 15 minute noise level emitted from the use must not exceed the background noise level (LA90, 15 minute) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) by more than 3 dB when assessed indoors at any affected commercial premises.

As outlined in detail in the attached acoustic assessment report, modelling inputs included ground surface, locations of sensitive receivers (located at residential units surrounding the site), noise generated by the use of the rooftop bar area, as well as any other inputs which have an effect on the noise environment, such as the buildings surrounding the site.

Based on the proposed operation, the report concludes that the operation is unlikely to be audible above the prevailing ambient noise of the area which is dominated by road traffic noise and general mechanical plant noise.

It was concluded that the proposal can comply with the above condition of consent.

However, notwithstanding the compliance demonstrated, the acoustic consultant recommended the following site management practice and design recommendations:

Music noise level

The maximum allowable reverberant sound pressure level for music within the bar area should be limited to 65 dBA. The lower background music will promote use of lower vocal effort (signal to noise ratio) and thus would control the overall noise emission from the Terrace.

Rooftop canopy enclosure

The construction of the roof enclosure is proposed to utilise the existing curtain wall (assumed 6.38 mm thickness), metal deck roof with 25 percent skylights. The existing floor covering of the Terrace is noted to be timber boards. Both ends of the roof structure are to be enclosed with glazing (top of lift entry and the bar as shown in Figure 3.2) with minimum thickness of 6.38 mm.

It is necessary to consider the detailing of the junctions to ensure all gaps are sealed airtight so that the acoustic performance of the rooftop canopy is not compromised through sound flanking or leaking through the construction.

To control reverberation time within the space, a minimum surface areas of absorptive treatment (material rating of at NRC 0.8) shall be incorporated in the design to cover minimum of 40 percent of the total ceiling area (excluding areas with glazing).

These can be adhered to and are suggested as conditions of consent. Further, the Plan of Management has incorporated the measure regarding music noise levels.

The current hours of operation of the rooftop bar are at the discretion of hotel management under the existing Plan of Management.

Whilst previous consents approved the rooftop bar area, no conditions of consent imposed a limitation on hours of operation for the bar, or access. In addition to the application of noise conditions proposed by WSP | Parsons Brinckerhoff above, it is proposed that the hours be formalised and noise impacts regulated through appropriate conditions of consent as part of this approval, as follows:

- *That the roof deck and pool can be used by overnight guests, private function guests and walk-in guests between 7.00 and 10.00pm, 7 days.*
- *Notwithstanding the approved hours, alcohol can be served only between 12.00midday and 10.00pm, 7 days.*
- *That the maximum capacity of the rooftop venue be limited to 150 patrons which may include overnight guests, private function guests and walk-in guests.*
- *That the operations of the rooftop bar venue comply with the Plan of Management submitted with this application.*

It is noted that because of the capacity of the rooftop deck area, with a maximum patronage of 150, the premises would be described as a Category A premises (with respect to Late Night Trading) in Sydney Development Control Plan 2012. Having regard to the Plan's provisions, the rooftop bar area is *(ii) a hotel within the meaning of the Liquor Act 2007 that has a capacity of more than 120 patrons and is designated as a general bar licence.*

The DCP states Category A premises located within this City Living Trading Area have recommended base outdoor trading hours of between 10.00am and 8.00pm, with possible extended hours of between 10.00am and midnight.

In the Development Control Plan, base hours are the standard range of trading hours that a late night trading premises is entitled to if an application is approved. Extended hours mean trading hours that may be approved above base hours on a trial basis, with a Plan of Management and having regard to the site context.

The bar area has been approved without a limitation of hours and has been operating for some time between 3.00pm and 10.00pm, Wednesday to Friday and 11.00am and 10.00pm, Saturdays and Sundays.

As outlined in the acoustic assessment report, the bar area can comply with noise conditions, and the erection of a roof structure will improve the amenity of surrounding units by restricting noise impacts. The proposed hours of 7.00am and 10.00pm are generally consistent the City Living Trading Area Extended Hours in the Development Control Plan. The further limitation on the times for the service of alcohol reduces the likely impacts. The submitted Plan of Management includes measures that will ensure the ongoing protection of surrounding residential amenity and minimisation of impact.

The hours are consistent with the consent for other premises on the site and it is suggested that the hours be approved without a trial, given that a noise condition can be imposed on the rooftop bar area and that the acoustic report concludes that the premises can comply with such a condition. The proposed rooftop structure will further minimise noise impacts on surrounding residents. It is again emphasised that the rooftop bar area has been operating for some time without any limitation of hours imposed by previous consents.

Privacy

The proposed use of the existing pool terrace and bar area as a public bar does not decrease the privacy of the existing residential building adjacent. To the contrary, the introduction of the new roof structure increases privacy for residents by including further visual screening from an area which is currently trafficable and used for leisure purposes by existing hotel guests.

Conclusion

The City of Sydney has raised issues pertinent to the Plan of Management, urban design and liquor licensing matters. These matters include:

1. A revised Plan of Management found at [Attachment 1](#),
2. An urban design response pertinent to the design of the pergola structure by John Chesterman, architect for the proposal, found at [Attachment 2](#).
3. Liquor licensing advice pertinent to the roof top bar by Grant Cusack, Solicitor for the proposal, found at [Attachment 3](#).

Matters pertaining to acoustic privacy have been addressed by Acoustic Report which accompanied the Section 75w modification. With regard to visual privacy, the proposal does not decrease the privacy of the existing residential building adjacent. To the contrary, the introduction of the new roof structure increases privacy for residents by including further visual screening from an area which is currently trafficable and used for leisure purposes by existing hotel guests.

It is recommended that the matter be approved subject to the recommended conditions of consent above.