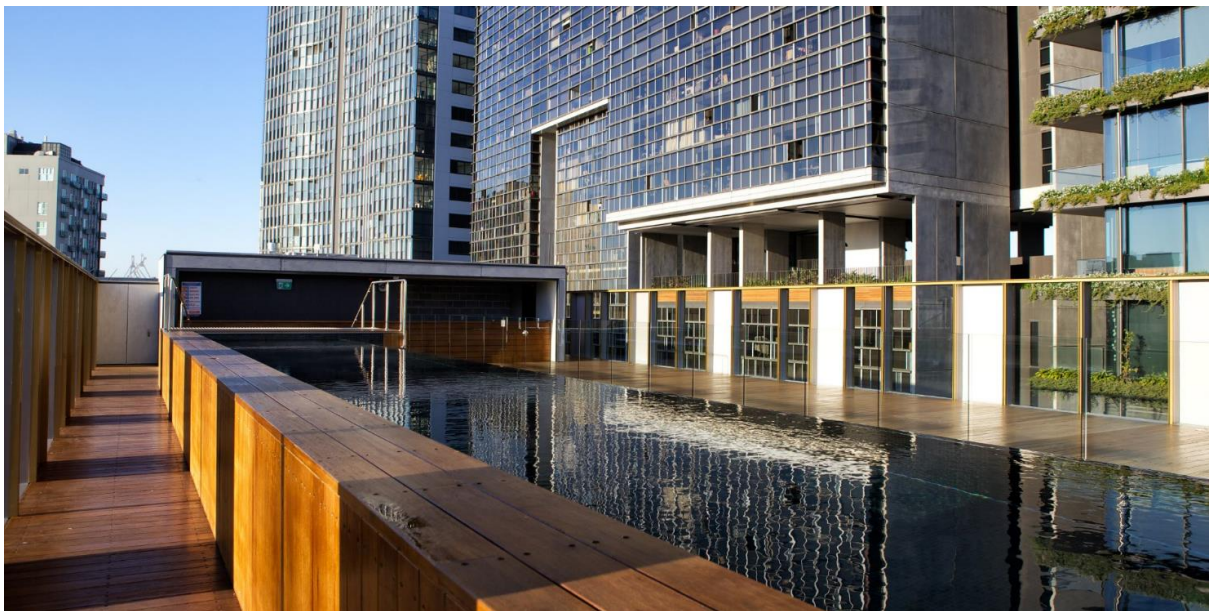




## STATEMENT OF ENVIRONMENTAL EFFECTS



**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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## Introduction

This Statement of Environmental Effects (SEE) is prepared in support of an application pursuant to Section 75W of Part 3A of the Environmental Planning and Assessment Act 1979.

Section 75W continues to apply for the purpose of the modification of a Project Application approved before or after the repeal of Part 3A. Section 75W also applies whether or not the project, or any stage of the project, is (or was) a transitional Part 3A project.

The NSW Department of Planning and Environment (DPE), under Part 3A of the Environmental Planning and Assessment Act 1979, approved Project Application (EP&A Act) numbered 11\_0089 on 5 April 2013. The consent allowed adaptive reuse of buildings within Block 3A of the former Carlton United Brewery site, and included use of the former administration building and the Old Clare Hotel as a 60-room boutique hotel with a rooftop pool and bar, and three food and drinks premises within lower levels of the premises.

This application seeks to erect a roof structure over part of the pool deck area and formalise the use, capacity and hours of operation of the approved bar area and deck space.

The proposal is substantially the same development as the approved development and may be determined in accordance with s75W of the EP&A Act.

## Proposal

The application 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 new roof terrace structure will not be visible from Kensington Street and will not be readily visible from Carlton Street, as demonstrated on the submitted plans. The roof structure is open on one long side, adjacent to the pool, and is therefore not counted as additional Gross Floor Area. The inclusion of the 3 WCs on the roof level will however add 8.3 square metres to the overall Gross Floor Area.

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. In order to regulate the use and to minimise the potential impacts of operation, proposed is to:

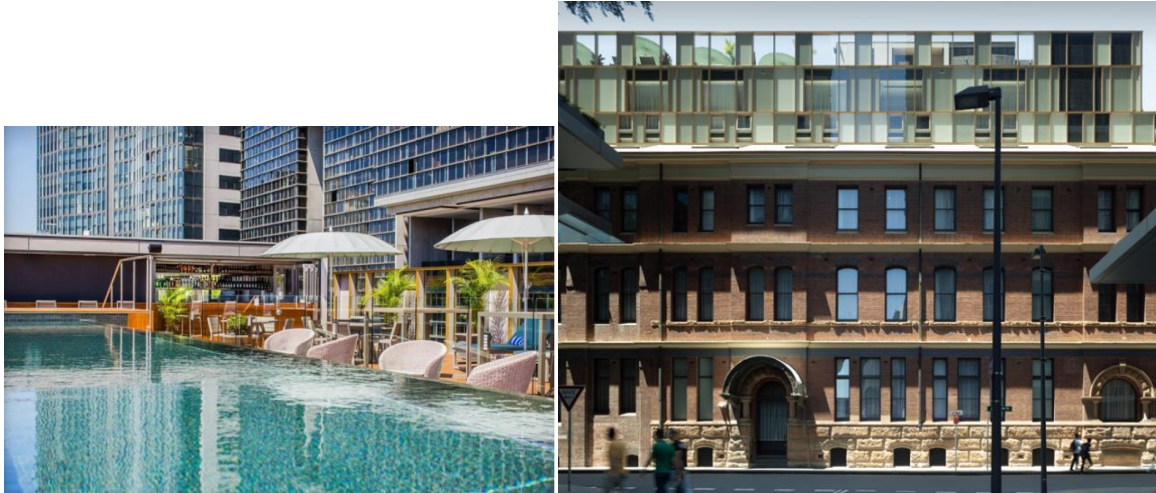
- Limit the capacity of the rooftop bar to 150 patrons;
- Limit the hours of operation of the rooftop to between 7.00am and 10.00pm, 7 days. Notwithstanding these hours, it is proposed to restrict the sale of alcohol to between 12.00midday and 10.00pm, 7 days;
- Require the development to comply with 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.

## Site and its Context

The subject site has a street address of 20-24 Broadway, Chippendale (Lot 1/DP191024), and 1-3 Kensington Street, Chippendale (Lot 6/DP1142053).

Block 3A is located on the eastern edge of the Central Park (formerly known as Frasers Broadway) Development. The site has street frontages to Broadway to the North, Kensington Street to the east, and Carlton Street to the

west. The site is part of a dense mixed-use area, comprising student housing, residential apartment buildings and retail and commercial premises. The precinct is also characterized by significant ambient noise, arising from the surrounding road network, the operation of adjacent premises and rooftop plant and equipment. Both buildings within Block 3A are identified as heritage items under Sydney LEP 2005 as the County Clare Inn (Item 5007) and the Administration Buildings part of Carlton United Brewery site (Item 5008A).



## Background

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.

On 5 April 2013, the Minister for Planning approved the Project Application MP 11\_0089 for the adaptive reuse of buildings within Block 3A of the former Carlton United Brewery Site. The approval gave consent to use the administration building and the old Clare Hotel as a 60 room boutique hotel with a rooftop pool, conference and meeting facilities and three food and drink premises with a new physical link to provide internal access between the two buildings. The hotel was approved with a gross floor area of 4,595.9m<sup>2</sup>. The approved plans showed 1,098m<sup>2</sup> of the gross floor area being dedicated to food and drink premises, including the rooftop bar and adjacent storeroom.

The application approved by the Minister did not seek approval for the specific fitout and use relating to the three food and drink premises on lower levels. Condition A7 of the consent stipulated that separate consent must be sought for the use and fitout of each these restaurants, including plans of mechanical extraction and ventilation. Further conditions addressed the heritage conservation of original features and noise emissions during construction and operation. Conditions F2, F6, F7 and F8 of the consent provided noise recommendations in relation to plant and machinery, mechanical plant and equipment, air conditioners and residential and commercial uses within the building. The Project Application and associated approval were further modified on 1 March 2014 to increase the gross floor area of the food and drink premises by 44.8m<sup>2</sup> to 1142.8m<sup>2</sup> because of internal design amendments to each level of the two buildings.

Subsequent to the Minister's approval on 1 March 2014, the City of Sydney approved DA 2014\_1509 on 30 March 2015. This consent enabled fitout of three licensed restaurants within Block 3A (the subject site) in accordance with the Minister's approval and enabled the following hours of operation and capacity:

1. Restaurant 1 (located in the Administration Building) has an approved capacity for 132 patrons and can operate 6.00am to 12.00midnight, Monday to Saturday, and 6.00am-10.00pm, Sundays.

2. Restaurant 2 (located in the Administration Building) has an approved capacity for 66 patrons and can operate 12.00 midday to 12.00 midnight, Monday to Sunday inclusive.
3. Restaurant 3 (Clare Hotel section) was approved with a capacity for 52 patrons, and can operate 12.00 midday to 12.00midnight, Monday to Sunday, inclusive.

The plans approved by Council also showed the rooftop bar and storage area, consistent with the previously approved Project Application plans prepared by TZG, and dated 15 November 2013. However, no further planning assessment of the rooftop bar area was sought from Council or undertaken as part of DA 2014\_1509, because no amendments to the roof top bar (approved by the Minister) were proposed, and further approvals for this space had not been required in the consent.

## Modification Under s75W

The matters assessed under this s75W application are that the development is of no significant environmental impact and that the development, as proposed, is substantially the same development as that approved by the Minister and may be determined in accordance with s75W of the EP&A Act.

The purpose of this report is to:

- Assess the proposal against all relevant statutory controls;
- Consider whether the proposal is acceptable within the existing and likely future built form of the area;
- Consider whether the proposal is acceptable within the context of the applicable planning controls; and
- Address all significant environmental and external impacts, where applicable.

The application has been assessed under Section 79C of the Environmental Planning and Assessment Act 1979, including consideration of the following matters: Sydney Local Environmental Plan 2005 and Development Control Plan 2012. Having regard to the criteria, the proposal is acceptable and is recommended for approval.

## Sydney Local Environmental Plan 2005

Because the proposal seeks consent under 75W, pursuant to Part 3A of the Environmental Planning and Assessment Act, 1979, it is not subject to statutory compliance with Sydney LEP 2005. Notwithstanding, Table 1 describes the relevant matters for consideration under the Sydney LEP 2005 and it is clear that proposal meets the Plan's controls and objectives.

**Table 1. Planning controls in the Sydney LEP 2005.**

| Aspect                 | Detail                                  | Assessment  |
|------------------------|---|---|
| <b>Land Use Zoning</b> | The site is zoned City Edge in the LEP. | The use was deemed to meet the objectives specified in the zone as part of the previous consent issued by the Minister. The development of a roof top structure and the formalisation of the space as a bar area, accommodating up to 150 patrons, is permitted in the zone and continues to comply with the relevant objectives. |

| Aspect                  | Detail   | Assessment   |
|-------------------------|--|--|
| <b>Building Height</b>  | No numerical height limit is set for the site, although Clause 50(8) is applicable to the site, which states that consent must not be granted for the erection of a building unless its height will complement the height of buildings on adjacent land. | <p>The approved Masterplan included a maximum RL of 41.5m for Block 3A. The new roof structure is an ancillary and minor addition to the approved building and exceeds this RL by 120mm.</p> <p>The maximum height of the roof structure is 3.1 metres from the deck level. However, the structure, with dimensions 21 metres by 4.6 metres, extends only 1.2 metres above the building parapet and is below the height of the existing lift overrun on the site. It is also well below the significant height of surrounding buildings and therefore meets the objectives for height in the Sydney Local Environmental Plan.</p>  |
| <b>Gross Floor Area</b> | The CUB Site Concept Approval has an approved GFA of 255,500sqm and FSR of 4.37:1.   | The proposal adds an additional 8.3 square metres of Gross Floor Area to the site (totaling 4604.2m <sup>2</sup> ), arising from the development of the water closets. This constitutes less than a 1% increase to the approved gross floor space on the Old Clare Hotel site (4,595.9m <sup>2</sup> ) and a negligible increase in GFA as a proportion of the 255,500 sqm of approved GFA for the CUB site overall (or 0.003%). The proposal will result in no heritage impact, or other impacts on the amenity of surrounding properties.  |
| <b>Carparking</b>       | Hotels and Clubs generate a maximum car-parking requirement of 1 space per 5 bedrooms, and 4 spaces per 100 square metres of function room area, in the Local Environmental Plan.  | Carparking provision for the site has been assessed and approved by the Minister as part of the Project Plan. Ten car-parking spaces for boutique hotel guests are located in the basement carparking areas of adjoining blocks. However, no additional carparking is allocated to the approved food and drink premises. This proposal causes an additional 8.3 square metres of gross floor area, arising from development of three water closets on the roof. This nominal increase in floor space will not cause additional car-parking demand. Further, given the site's proximity to public transport, and active pedestrian and road networks that support walking, taxis and ride sharing, as well as carparking stations on nearby land, any further demand that arises from an increase in patronage on the site (arising from the creation of a more |

| Aspect          | Detail   | Assessment  |
|-----------------|--|---|
|                 |  | amendable rooftop bar space), can be easily accommodated by the existing context.   |
| <b>Heritage</b> | Both buildings located in Block 3A are identified as Heritage Items pursuant to Sydney Local Environmental Plan 2005. Clause 67A of the LEP contains objectives for development relates to Heritage Items. | The proposal was referred to Paul Davies Heritage Consultants for an assessment of its heritage impact. The Heritage Impact Statement (attached) states that the development will have no impact on the remaining heritage of the building. Further, the Statement concludes that the structure is architecturally designed in a manner in keeping with the <i>excellent design quality</i> of the existing alterations. The proposed works therefore meet the objectives of the LEP in relation to heritage. |



## Sydney Development Control Plan 2012

Table 2 summarises the relevant matters for consideration under the Sydney Development Control Plan 2012, with further detail regarding the key issues of acoustic impact and hours described in further detail below.

**Table 2. Planning controls in the Sydney DCP 2012.**

| Aspect                                    | Detail  | Assessment  |
|---|---|---|
| <b>Waste</b>                              | Section 3.14 of the Development Control Plan 2012 relates to waste management, including requirements for a Waste Management Plan and an appropriate waste storage area.  | A Waste Management Plan for the site has been prepared by Arup and a dedicated waste storage room and loading area is provided on the site, accessed from Kensington Lane. Waste is collected by a private contractor, and the Plan of Management for the site reaffirms the commitment to minimise impacts from surrounding residents and tenancies with respect to waste removal from the site. The application meets Council's requirements for waste management and minimisation. |
| <b>Accessibility</b>                      | 3.12 of the Development Control Plan seeks equitable access and facilities for all people where upgraded or intensified uses in existing buildings are proposed.  | A lift is provided to the rooftop space and the development meets the access requirements of the Building Code of Australia and the Development Control Plan with respect to accessibility.   |
| <b>Heritage</b>                           | Section 3.9 contains provisions and objectives regarding the impact of development on Heritage items.   | As outlined above, the Heritage Impact Statement prepared by Paul Davies Heritage Consultants concludes that the development will have no heritage impact. The proposal complies with the Development Control Plan with respect to heritage.  |
| <b>Parking</b>                            | Section 3.11 contains provisions and objectives regarding parking provision.  | Parking and access is outlined above in Table 1. The development fulfills the objectives and provisions for parking in both LEP 2005 and DCP 2012.  |
| <b>Acoustic Impact and Proposed Hours</b> | This site is located within the 'Kensington Precinct' of the Central Park Development area that has been allocated for retail, commercial and food and drink uses. The site is partly designated City Living Area with respect to late night trading management. Category A premises located within this Late Night Trading Area can have outdoor trading hours of between 10.00am and 12.00midnight. | An Acoustic Assessment Report was carried out by WSP   Parsons Brinckerhoff and has concluded that the proposal is acceptable with respect to acoustic impact and hours. For further information, see the section titled 'Acoustic Impact and Proposed Hours' below.  |



## 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<sub>f</sub> 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<sub>f</sub> 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.

This site is located within the 'Kensington Precinct' of the Central Park Development area that has been allocated for retail, commercial and food and drink uses. A portion of the site (Old Clare) is designated *City Living Area*, which enables late night trading for food and drink premises, whilst the remainder has not been categorised in the Late Night Trading Map. It is however noted that the site accommodates a number of food and drink premises with hours ranging from 6.00am to 12.00 midnight, 7 days per week.

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 the Development Control Plan. 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.

## Conclusion

There are no other changes to the approved development, and it is considered that the matter being dealt with (under this s75W application) does not increase the potential for adverse environmental impact. The development, as amended, is substantially the same development as the approved development and may be determined in accordance with Section 75W of the *Environmental Planning and Assessment Act 1979*. The development complies with the provisions and objectives that govern heritage, noise, hours, waste, accessibility and parking within the Local Environmental Plan and Development Control Plan. Additional conditions of consent will regulate the existing (approved) use of the bar area and further minimise impact on surrounding properties. It is recommended that the application be approved.

