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Planner  
NSW Department of Planning and Environment  
Address

By email: [thomas.piovesan@dpie.nsw.gov.au](mailto:thomas.piovesan@dpie.nsw.gov.au)

Dear Thomas

### **Advice on Modification 11 - Use of seating in Innovation Plaza**

Thank you for your correspondence dated 8 December 2022 inviting the City of Sydney Council (the City) to comment on the above. The City understands the modification seeks consent for the following:

- The use of part of the outdoor seating zone in Innovation Plaza in conjunction with the pub approved in Bay 1 (under Development Consent No. D/2021/947).
- The installation of moveable tables and chairs for 220 seated guests within the identified seating zone approved under condition A24 and in the "Site Retail Plan".
- Operating hours of the outdoor seating area are 10am to 12am (midnight), Monday to Sunday, with the following capacity restrictions:
  - From 10am to 10pm, a maximum of 220 patrons may be seated in the outdoor area.
  - From 10pm to 12am (midnight), a maximum of 120 patrons may be seated in the outdoor area.

The City has reviewed the submitted documentation and do not raise an objection to the proposed amendments, subject to the following matters being considered recommendations being implemented.

#### **1. Hours of Operation**

The site is not located within a late-night trading area under Section 3.15 of the Sydney DCP 2012, as such base hours of 10am to 8pm and extended hours of 10am to 10pm are permitted for Category A premises. The proposed operational hours of the outdoor dining area between 10pm and 12am (midnight) does not comply.

The modification is accompanied by an acoustic assessment prepared by Renzo Tonin & Associates which recommends a reduction in capacity of the outdoor area between 10pm to 12am (midnight) from 220 to 120 patrons, to ensure that the operation of the outdoor area is in accordance with the noise emission criteria.

Council's Environmental Health Officer has reviewed the proposal and supporting acoustic assessment and raises concerns regarding the use of the outdoor area after 10pm, given the non-compliance with the late-night management controls and crucially there being a high number of residential units on Cornwallis Street that are in proximity to the proposed dining area.

Notwithstanding the above, provision (4) of Section 3.15 does allow for Council to permit trading hours that exceed extended hours if the matters in Section 3.15.3 have been considered and provided that the site is not located within a residential zone and is located within 800m of a train station. This site meets this provision.

However, given that the site is located in proximity to residential uses and there likely being impacts associated from the closing times and patron dispersal of the proposed late-night uses, **it is recommended that extended hours from 10pm to 11pm are permitted for the outdoor dining area for 120 patrons on Friday and Saturday only.**

**These extended hours would be subject to a trial period of 1 year**, and at the completion of the trial period a new application must be lodged to renew existing trial hours.

## **2. Public Domain**

The amended consent should include the following conditions to ensure that the outdoor dining area complies with the City's Guidelines and does not result in adverse impacts to the public domain area, particularly to future street trees:

- A) *The proposed outdoor furniture is to comply with the City of Sydney's Outdoor Dining Guidelines dated June 2022, specifically Section 5: Outdoor Dining Furniture and provisions listed in points 5.2, 5.3, 5.4 & 5.5.*
- B) *Any damage to the existing public domain elements (i.e. paving, fixed street furniture, trees, planting beds, etc) within Innovation Plaza as a result of the outdoor furniture or use of the approved outdoor dining area, shall be rectified by and at the cost of the proprietor of the retail premises within Locomotive Workshops Bays 1 & 2, to the approval of the relevant consent authority.*
- C) *The following conditions apply to the proposed works and furniture associated with the outdoor dining area, to ensure adequate tree protection:*
  - a. *All elements of the seating plan are to remain on the hard surfaces only.*
  - b. *No chairs, tables, heaters or any other equipment is permitted within the garden beds.*
  - c. *No heaters are permitted within 1.5m or under the canopy of any tree.*
  - d. *No awnings, umbrellas or any other coverings are to be located within 1m of the canopy of any tree.*
  - e. *The reversible structure is to be a minimum of five metres from the trunk of any tree.*

Should you wish to speak with a Council officer about the above, please contact Mia Music, Senior Planner, on 9265 9333 or at [mmusic@cityofsydney.nsw.gov.au](mailto:mmusic@cityofsydney.nsw.gov.au)

Yours sincerely,

A handwritten signature in black ink, appearing to read 'G Jahn', with a large, stylized initial 'G'.

**Graham Jahn** AM LFRAIA Hon FPIA  
**Director**  
City Planning | Development | Transport