

Relevant Information for Local Planning Panel

FILE: D/2020/959 **DATE:** 3 February 2021

TO: Local Planning Panel Members

FROM: Andrew Thomas, Executive Manager Planning and Development

SUBJECT: Information Relevant To Item 3 – Development Application: 2-12 Carrington St, Sydney – D/2020/959

Alternative Recommendation

It is resolved that consent be granted to Development Application No D/2020/959, subject to the conditions detailed in Attachment A to the subject report to the Local Planning Panel on 3 February 2021, subject to the following amendments (additions shown in ***bold italics***, deletions shown in ~~strikethrough~~):

(2) STAGED OCCUPATION

The occupation of the development may be carried out in stages, with the relevant conditions being satisfied prior to the issue of an Occupation Certificate where specified in the conditions of consent for each stage as detailed below:

| (3) <i>Stage</i> | (4) <i>Occupation Certificate Area</i> |
|------------------------------------|--|
| (5) Stage 1 | (6) Ground Floor |
| (7) Stage 2 | (8) Levels 09 and 10 |

(9) (3) INDOOR HOURS OF OPERATION – SENSITIVE USES

(Remaining conditions to be renumbered accordingly).

(16) PLAN OF MANAGEMENT

The use must always be operated / managed in accordance with the Plan of Management V02, prepared by ***Michael Rowe The Point Group*** and dated December 2020 that has been approved by Council. In the event of any inconsistency, the conditions of this consent will prevail over the Plan of Management.

(13) AWNING DESIGN

(a) The outer edges of the proposed retractable awnings must be set back from the inner face of the heritage parapet by no less than 2m. ***This does not apply to the pleated shadings.***

Background

Following publication of the relevant Local Planning Panel report and recommended Conditions of Consent, two (2) late submissions were received. The first submission received 27 January 2021 raises the following issues, which are addressed in the subject LPP report as other submitters have raised these issues.

- Amenity and noise impacts.

The second submission dated 29 January 2021 raises the following issues, which have been addressed in the subject LPP report (the subject objector commented on the DA during assessment also):

- Lack of consideration and assessment of the impact of noise emissions to 'Portico (2 York St)' residential building.
- Adverse impact of the operating hours of 3 'pubs' in Shell House 24 hrs per day and 7 days a week

The second submission dated 29 January 2021 raises the following new issues:

- (a) Inadequacy of revised Acoustic Assessment. Use of 2015 report. Base hours only should be approved.
- (b) Inappropriate comparisons with other venues in the Statement of Environmental Effects.
- (c) Inadequacy of Plan of Management – no capacity outlined, relies on judgement of management and staff, no objective measures to manage noise outputs, the focus of the plan is on minimisation, relies on residents complaining, the level of noise from speakers on the terraces is supposed to be lower than the level of noise from speakers inside however there is no limit on the number of speakers, designated smoking areas are not addressed, physical noise mitigation measures (plantings, noise limiters) are temporary only and can be negated through wear and tear, there are no provisions for monitoring and reviewing.
- (d) Inadequacy of protections provided by the proposed conditions of consent – Condition 26 (Noise – entertainment).

A response to each point above is provided below.

- (a) Section 4.2 of the revised Acoustic consultant's report outlines a table of predicted noise emissions from a similar late-night rooftop bar venue at 280 George Street that supported a development application in 2015 (DA D/2015/1845). These predicted noise levels are considered acceptable as they reflect the noise likely to be generated from the Shell House proposal within the Wynyard Station context and surrounding sensitive receivers. The background noise measurements taken at the boundary of 2 York Street when compared to the predicted noise levels in Table 2 indicate there will be no unacceptable noise impact associated with the proposed development.

A 1 year trial in conjunction with the compliance with the noise conditions should minimise the concern of the objection on p4.

- (b) The comparisons against other venues is to show that the proposal is not out of character with the area in terms of hours of operation and use.
- (c) Section 2.2 of the Plan of Management (V02) outlines the capacity, and further, the capacity, noise limits, and other amenity impacts will be managed by the conditions of the consent, with noise impacts largely covered by the Acoustic Assessment. Where 'wear and tear' occurs to any physical noise limiting implements and adverse noise impacts occur, the Council has the ability to enforce the venue to comply with the Acoustic Assessment through the conditions of consent.
- (d) Section 4.1 of the Revised Acoustic Assessment is written by the Acoustic Consultant and Condition 26 has been copied as per the DA referral from City's Environmental Health team. The wording is a standard condition across the City's late night uses.

There were minor errors in the Conditions of Consent in relation to:

1. Formatting of Condition 2 and subsequent numbering of conditions;
2. Plan of Management author. The Applicant (Michael Rowe) has been referenced in lieu of the operators, Point Group.
3. On 3 February 2021 the applicant emailed to request changes to Condition 13 (Awning Design) so that a 2m setback from the outer face of the heritage parapet is required (instead of inner face) and to include reference that the pleated shading does not need to be setback by 2m. The City's heritage officer agreed that a 2m setback is not required for the pleated shading, however did not support the change to the condition in relation to the 2m setback to the outer face of the heritage parapet, due to the visual impact of the awning.

Prepared by: Amy-Grace Douglas, Senior Planner

Attachments

Attachment A. Late Submissions (Confidential)

Approved

Handwritten signature in black ink, consisting of the letters 'A', 'J', and 'T' in a stylized, cursive-like font.

ANDREW THOMAS

Executive Manager Planning and
Development