

Relevant Information for Local Planning Panel

FILE: D/2024/620 **DATE:** 16 October 2024

TO: Local Planning Panel Members

FROM: Andrew Thomas, Executive Manager Development

SUBJECT: Information Relevant To Item 4. Development Application: 353-359 Crown Street, Surry Hills – D/2024/620

Alternative Recommendation

It is resolved that consent be granted to Development Application No D/2024/620, subject to the conditions detailed in Attachment A to the subject report to the Local Planning Panel on 16 October 2024, subject to the following amendments (additions shown in ***bold italics***, deletions shown in ~~strikethrough~~):

Condition 2:

(2) ~~NO FOOD PREPARATION (PRE-PACKAGED FOODS ONLY)~~

~~This approval does not include the preparation and processing of food at the premises and relates only to the sale of food sold and served in the supplier's original package.~~

Reason

~~To restrict the use of food premises without an adequate kitchen.~~

Condition 11:

(11) **CESSATION OF SERVICE**

The premises may be open for business only between the operating hours in the condition above. The operator must cease providing alcohol ***to be consumed*** at the premises 30 minutes before the required closing time.

Reason

To ensure the development operates within the approved hours of operation.

Background

On 14 October 2024, the applicant wrote to the Local Planning Panel, requesting the Panel resolve to revise the wording of Condition 2 and Condition 11 to better reflect the intended operations of the premises.

On 15 October 2024, the applicant emailed a further request to the assessing planner, requesting that Condition 2 be deleted altogether.

The applicant's suggestion that Conditions 2 be deleted and that Condition 11 be alternatively worded is supported.

Condition 2: No Food Preparation (Pre-Packaged Foods Only)

Condition 2 is a food safety condition that can be recommended for development applications in circumstances where no mechanical ventilation or no commercial kitchen is provided within the subject premises.

The condition was included in the Recommended Conditions of Consent by the assessing planner to clarify that no cooking may be carried out on-site and that only food prepared off-site may be offered to patrons.

The applicant's suggestion that the condition be deleted is supported. The wording of the condition is overly restrictive, requiring food to be served or sold '*in the supplier's original packaging*'.

The applicant intends to provide light food offerings, including cheese, fruit, and meat platters. These may be served by trained hospitality staff, without compromising food safety.

The applicant has clarified that when required, the reheating of food is intended to be carried out using a microwave oven or toaster. This is acceptable, noting Condition 25 (No Mechanical Ventilation – Approved Equipment List) requires the applicant to provide a list of cooking and food heating equipment to be used within the premises.

Condition 25 has the effect of preventing 'cooking' within the premises, which is defined as the process of changing any food from raw to cooked by applying heat.

It is recommended consideration be given by the Panel to delete condition 2.

Condition 11: Cessation of Service of Alcohol

Condition 11 is standard condition able to be applied to licensed premises. The condition requires the service of alcohol to cease 30 minutes before closing time.

The condition was included in the Recommended Conditions of Consent by the assessing planner to clarify that patrons must be given sufficient time to finish drinks purchased within the premises, so that they may leave no later than the permitted hours of operation.

The applicant's suggested wording can be supported, noting the primary purpose of the premises is as a boutique wine store with ancillary service of alcohol (28 internal seats).

It is reasonable for a patron to purchase take away alcohol for consumption off the premises, within the permitted hours of operation and in accordance with the intended 'full hotel' license.

The applicant has clarified that they accept the service of alcohol for consumption within the premises (for seated patrons) should cease 30 minutes prior to the cessation of the permitted hours of operation.

The applicant has further clarified there is an error on page 2 of their letter to the LPP dated 14 October 2024, whereby they state the sale of packaged liquor for takeaway will cease at 10:00pm, daily.

The requested hours of operation are until 11:00pm, Monday to Saturday and 10:00pm, Sundays, and the applicant intends to sell packaged liquor for takeaway up until those times.

It is recommended consideration be given by the Panel to adopt the above suggested re-wording of condition 11.

Prepared by: Adrian McKeown, Senior Planner.

Attachments

- Attachment A.** Letter from the Applicant to the Local Planning Panel, dated 14 October 2024, requesting review of Recommended Conditions of Consent (Conditions 2 and 11).
- Attachment B.** Email from Applicant to Planner, dated 15 October 2024, requesting deletion of condition 2.

Approved



ANDREW THOMAS

Executive Manager Development

Attachment A

**Letter from Applicant to the LPP Requesting
Review of Recommended Conditions of
Consent**

14 October 2024

The Chair
City of Sydney Local Planning Panel
City of Sydney Council
GPO Box 1591
Sydney NSW 2000

Sent via email: secretariat@cityofsydney.nsw.gov.au

Dear Chair

RE: ITEM NO. 4: DEVELOPMENT APPLICATION: 353-359 CROWN STREET, SURRY HILLS - D/2024/620

We write in regard to the abovementioned Development Application (D/2024/620) listed as Item No. 4 that will be considered by the City of Sydney Local Planning Panel (Panel) at the Panel Meeting on Wednesday, 16 October 2024, "for the fitout and use of the subject tenancy as a food and drink premises (under a Full Hotel License) to be known as 'Good Pair Days'. Milestone (AUST) Pty Limited (Milestone) acts as the Applicant on behalf of Wine Gallery Pty Ltd (Good Pair Days) and we refer to Council's Assessment Report including the recommended 38 conditions of consent and respectfully request that the Panel revise Condition 2 and Condition 11 as outlined below. We confirm that all other conditions are supported.

Proposed Revision of Condition 2 – No Food Preparation (Pre-packaged Foods Only)

Milestone provides the following revised Condition 2 (changes shown in **red**), for the consideration of the Panel:

(2) NO FOOD PREPARATION (PRE-PACKAGED FOODS ONLY)

*This approval does not include the preparation and processing of food at the premises and relates only to the sale of food **sold and served in the supplier's original package prepared off-site by a supplier.***

Reason

To restrict the use of food premises without an adequate kitchen.

There will be no cooking carried out within the subject tenancy, including for events. All light food offerings will be pre-prepared by external suppliers and delivered to the premises. Light food offerings will include cheese, fruit, and meat platters, and when any heating or toasting of food is required, this will be carried out via a microwave oven or toasting, as noted within the Proposal Summary of Council's Assessment Report on page 2, and in the Plan of Management dated September 2024, prepared by Milestone.

The current wording of Condition 2 states that food must be sold and served in the supplier's original packaging, which limits the ability to assemble food platters, as well as serve food that is prepared off-site and taken out of its original packaging for re-heating. Milestone received confirmation from Adrian McKeown, Senior Planner at City of Sydney Council (Council) over the phone on 14 October 2024, that the intention of Condition 2 is not to restrict the serving of food taken out of its original packaging and is a standard Council condition imposed on food and drink premises that do not have full kitchens and do not have mechanical ventilation equipment. On this basis, we kindly request that the Panel revise the wording of Condition 2 to reflect the proposal's operations.

Proposed Revision of Condition 11 – Cessation of Service

Milestone provides the following revised Condition 11 (changes shown in **red**), for the consideration of the Panel:

(11) CESSATION OF SERVICE

*The premises may be open for business only between the operating hours in the condition above. The operator must cease providing alcohol **to be consumed** at the premises 30 minutes before the required closing time.*

Reason

To ensure the development operates within the approved hours of operation.

Section 3.2 of the Plan of Management dated September 2024, prepared by Milestone for the Good Pair Days store, states the premises will trade between the following hours:

- Mondays to Saturdays 7:00am to 11.00 pm
- Sundays 7.00am to 10.00 pm

The hours for the sale of packaged liquor for takeaway will be as follows:

- Mondays to Sundays 10.00am to 10.00pm

As it reads, Condition 11 requires the operator to cease providing alcohol at the premises 30 minutes before the required closing time (11:00pm, Monday to Saturday, and 10:00pm, Sunday). This condition does not distinguish between the sale of alcohol to be consumed on-site and the sale of packaged liquor (takeaway). Therefore, the sale of packaged liquor is also restricted to 9:30pm on Sundays, which is 30 minutes earlier than what is sought, to 10:00pm.

Milestone also discussed this matter with Adrian McKeown of Council, over the phone on 14 October 2024, who agreed that there had been an error and Condition 11 should be specific to the sale of alcohol for on-premises consumption and therefore allow for the sale of packaged liquor until 10:00pm on Sundays. Therefore, we kindly request that the Panel revise Condition 11 to reflect this.

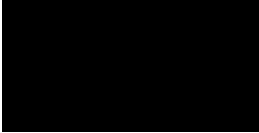
SUMMARY

We respectfully request that the Panel resolve to revise both Condition 2 and Condition 11 to reflect the operations of the Good Pair Days store.

We thank the Panel for their time and review of this submission.

Yours sincerely

Milestone (AUST) Pty Limited



Luke Signoretti
Associate

Attachment B

**Email from Applicant to Planner Requesting
Deletion of Condition 2**

From: [Adrian McKeown](#)
To: [Eileen Leather](#)
Subject: FW: Notification of Local Planning Panel Meeting - 16 October 2024 - 353-359 Crown Street, Surry Hills - D/2024/620
Date: Wednesday, 16 October 2024 11:08:17 AM
Attachments: [image001.png](#)
[Letter to LPP - D.2024.620 - 353-359 Crown Street, Surry Hills - Item No. 4.pdf](#)

Hi Eileen,

Pls attach a PDF copy of the below email (not the attachment to the email).

The attachment to the email is already Attachment A.

Thanks,
Adrian.

From: Luke Signoretti [REDACTED]
Sent: Tuesday, 15 October 2024 5:36 PM
To: Adrian McKeown <AMcKeown@cityofsydney.nsw.gov.au>
Cc: Lisa Bella Esposito [REDACTED]
Subject: RE: Notification of Local Planning Panel Meeting - 16 October 2024 - 353-359 Crown Street, Surry Hills - D/2024/620

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Good afternoon, Adrian

I hope you are well.

As you know, we issued the **attached** Late Submission to the Panel late yesterday. Despite our Late Submission, the client (Good Pair Days) remains concerned with the wording of Condition 2 (No Food Preparation – Pre-packaged Food Only) and the use of the word 'preparation' within the condition, which limits their intended operations, which includes the assemblage of ingredients to make platters and other light food options. We reiterate the uncertainty of this condition to Council.

Therefore, I wanted to put forward to you that we would also seek to have this condition removed altogether, so that there is no limitation to the preparation of food, as described. We note that there will be no cooking carried out on the premises.

Condition 25 (No Mechanical Ventilation – Approved Equipment List) already limits how food will be prepared/heated up on the premises and there is no objection to this condition. Therefore, we consider that Condition 2 is not required.

Can you please clarify that you see no issue with Milestone recommending the removal of Condition 2, to the Panel.

Thank you very much for your assistance.

Kind Regards,

TOWN PLANNING

Luke Signoretti
Associate

Milestone (Aust) Pty Limited

[REDACTED]

milestonemanagement.com.au

From: Luke Signoretti
Sent: Thursday, 10 October 2024 9:09 AM
To: Adrian McKeown <AMcKeown@cityofsydney.nsw.gov.au>
Cc: Lisa Bella Esposito [REDACTED]
Subject: RE: Notification of Local Planning Panel Meeting - 16 October 2024 - 353-359 Crown Street, Surry Hills - D/2024/620

Good morning, Adrian

Thank you for your email.

We will review the Meeting Paper and reach out if we have any questions.

Regards,



TOWN PLANNING

Luke Signoretti
Associate

Milestone (Aust) Pty Limited

[REDACTED]

milestonemanagement.com.au

From: Adrian McKeown <AMcKeown@cityofsydney.nsw.gov.au>
Sent: Wednesday, 9 October 2024 11:55 AM
To: Luke Signoretti [REDACTED]
Cc: Lisa Bella Esposito [REDACTED]
Subject: Notification of Local Planning Panel Meeting - 16 October 2024 - 353-359 Crown Street, Surry Hills - D/2024/620

Good morning Luke,

Confirming your item for the LPP meeting on 16 October 2024: