

## Resolution of Local Planning Panel

**12 June 2024**

### Item 4

#### Development Application: 256 Crown Street Darlinghurst - D/2023/265

The Panel grants consent to Development Application Number D/2023/265 subject to the conditions set out in Attachment 'A' to the Council's Officer's Report with the following amendments (additions shown in ***bold italics***, deletions shown in ~~strikethrough~~):

#### (1) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2023/265 dated 31 March 2023 and the following drawings prepared by Tonkin Zulaikha Greer:

Drawing Number	Drawing Name	Date
A031	Existing Sections	03.11.23
A011 Rev 01	Basement Demolition Plan	03.11.23
A012 Rev 01	Ground Floor Demolition Plan	03.11.23
A013 Rev 01	First Floor Demolition Plan	03.11.23
A014 Rev 01	Second Floor Demolition Plan	03.11.23
A015 Rev 01	Roof Demolition Plan	03.11.23
A021 Rev 01	Demolition Elevations 01	03.11.23
A022 Rev 01	Demolition Elevations 02	03.11.23
A101 Rev 01	Basement Floor Plan	03.11.23
A102 Rev 01	Ground Floor Plan	03.11.23
A103 Rev 02	Level 1 Floor Plan	11.03.24

Drawing Number	Drawing Name	Date
A104 Rev 02	Level 2 Floor Plan	11.03.24
A105 Rev 02	Level 3 Floor Plan	11.03.24
A106 Rev 02	Level 4 Floor Plan	11.03.24
A107 Rev 02	Level 5 Roof Top Plan	11.03.24
A108 Rev 02	Roof Plant Plan	11.03.24
A202 Rev 02	Kells Lane Elevation	11.03.24
A203 Rev 02	Langley Street Elevation	11.03.24
A204 Rev 02	Foley Street Elevation	11.03.24
A301 Rev 01	Section 1	11.03.24
A302 Rev 02	Section 2	11.03.24
A303 Rev -0	Section 3	11.03.24
<b>A201 Rev 01</b>	<b>Crown Street Elevation</b>	<b>3.11.2023</b>

and as amended by the conditions of this consent.

- (b) In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

### **Reason**

To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

### **(8) INTERNAL HOURS OF OPERATION**

The internal hours of operation are regulated as follows:

- (a) The base internal hours of operation must be restricted to between 10am and 10.00pm Monday to Saturday inclusive.
- (b) Notwithstanding (a) above, the use may operate between **7am and 10am and** 10.00pm and 12 midnight for a trial period of 1 year from the date of issue of Occupation Certificate. Council's Health and Building Unit is to be informed in writing of the date of commencement of the trial hours. Email notification is to be sent to liquor@cityofsydney.nsw.gov.au. **No alcohol is to be served prior to 10.00am.**

- (c) Should the operator seek to continue the extended operating hours outlined in (b) above, an application must be lodged with Council not less than 30 days before the end of the trial period. Council's consideration of a proposed continuation and/or extension of the hours permitted by the trial will be based on, among other things, the performance of the operator in relation to the compliance with development consent conditions, any substantiated complaints received and any views expressed by the Police.

**Reason**

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

**(9) EXTERNAL HOURS OF OPERATION - ROOFTOP**

The external hours of operation are regulated as follows:

- (a) The base external hours of operation must be restricted to between 10.00am and 8.00pm Monday to Saturday inclusive.
- (b) Notwithstanding (a) above, the use may operate between **8.00am and 10am and** 8.00pm and 10.00pm for a trial period of 1 year from the date of issue of Occupation Certificate. **No alcohol is to be served prior to 10.00am.**
- (c) Should the operator seek to continue the extended operating hours outlined in (b) above, an application must be lodged with Council not less than 30 days before the end of the trial period. Council's consideration of a proposed continuation and/or extension of the hours permitted by the trial will be based on, among other things, the performance of the operator in relation to the compliance with development consent conditions, any substantiated complaints received and any views expressed by the Police.

**Reason**

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

**(68) NATIONAL CONSTRUCTION CODE COMPLIANCE - ALTERATIONS AND ADDITIONS - UPGRADE OF THE BUILDING IS REQUIRED**

- ~~(a) Pursuant to Section 64 of the Environmental Planning and Assessment Regulation 2021 an assessment of the development proposal has been undertaken and:~~
  - ~~(i) As more than 50 percent of the volume of the building is proposed to be altered or has been altered over the previous 3 year period; and/or~~
  - ~~(ii) The measures contained in the building are inadequate to protect persons using the building and to facilitate their egress from the building in the event of fire, or to restrict the spread of fire from the building to other buildings nearby, it is determined that the whole building must be brought into total conformity with the *Building Code of Australia*.~~

~~(b) If compliance with (a) above cannot be achieved through the deemed-to-satisfy pathway, a performance solution in accordance with the BCA must be prepared and submitted to the Registered Certifier illustrating how the relevant performance provisions are to be satisfied prior to the issuing of a construction certificate.~~

***Pursuant to Section 64 of the Environmental Planning and Assessment Regulation 2021, where currently non-compliant, the whole of the existing building must be upgraded to comply with the performance requirements relevant to the following Parts of the Building Code of Australia:***

- (a) Fire resistance - Part C1;***
- (b) Fire resistance and stability – Part C2;***
- (c) Compartmentation and separation - Part C3;***
- (d) Protection of openings - Part C4;***
- (e) Access and egress - Part D1;***
- (f) Provision of escape - Part D2;***
- (g) Construction of exits - Part D3;***
- (h) Fire fighting equipment - Part E1;***
- (i) Smoke hazard management (Performance Requirements) - Part E2;***
- (j) Lift installations - Part E3; and***
- (k) Visibility in an emergency, exit signs and warning systems - Part E4.***

**Reason**

To ensure the works comply with relevant regulations, in particular for fire and safety.

**(131) OPERATIONAL NOISE**

- (a) Appropriate attended noise monitoring must be undertaken by a suitably qualified acoustical consultant\* during operation of the premises at 3 months and 12 months following the commencement of use. The acoustic consultant must verify noise emanating from the premises, at the nearest residential receiver, does not exceed the noise criteria detailed in Condition 127 “Noise Entertainment”.***
- (b) An acoustic report detailing the results of monitoring undertaken should be submitted to the Council’s Area Planning Manager within 7 days after monitoring has taken place.***
- (c) Where noise is found to exceed the noise criteria, the acoustic report must recommend further measures to ensure compliance with the criteria. Evidence that these measures have been implemented must be provided to Council’s Area Planning Manager.***

***Note: Suitably Qualified Acoustic Consultant means a consultant who possesses the qualifications to join the Australian Acoustical Society, Institution of Engineers Australia (grade of member) or the Association of Australasian Acoustical Consultants (grade of member firm). With respect to (i), in selecting a consultant, the proponent may wish to consider previous relevant experience of the consultant.***

***Reason***

***To ensure the acoustic amenity of the surrounding area is reasonably maintained.***

**Reasons for Decision**

The application was approved for the following reasons:

- (A) The proposal satisfies the objectives of the Environmental Planning and Assessment Act, 1979, in that, subject to the imposition of conditions as recommended, it achieves the objectives of the planning controls for the site for the reasons outlined in the report to the Local Planning Panel.
- (B) The development, subject to conditions, is consistent with the objectives of the MU1 Mixed Use zone.
- (C) Subject to the recommended conditions of consent, the proposed development achieves acceptable amenity for adjoining sites.
- (D) The proposal provides 10 per cent cultural and creative floor space and complies with the alternative maximum height of buildings control under in Clause 6.60D of the Sydney Local Environmental Plan 2012 and the design of the development responds appropriately to the scale of surrounding buildings.
- (E) The proposed density of the development complies with the maximum floor space ratio development standard in Clause 4.4 of the Sydney Local Environmental Plan 2012.
- (F) The development, subject to conditions, exhibits design excellence and satisfies the provisions of Clause 6.21C of the Sydney Local Environmental Plan 2012.
- (G) Subject to conditions, the proposal generally satisfied the relevant objectives and provisions of the Sydney Local Environmental Plan 2012 and the Transport and Infrastructure SEPP.
- (H) Condition 1 was amended to ensure the consent includes a correct record of all relevant plans.
- (I) Conditions 8 and 9 were amended in line with a request made by the applicant, to utilise the premises prior to 10am.
- (J) Condition 68 was amended to ensure that required fire safety measures are addressed whilst balancing the protection of existing heritage fabric.
- (K) Condition 131 was added to ensure the acoustic amenity of neighbouring properties.

Carried unanimously.

D/2023/265