

## Resolution of Local Planning Panel

**12 September 2018**

### Item 3

#### Development Application: 344 Crown Street, Surry Hills

The Panel having considered the representations of the speaker and comments of the Director City Planning, Development and Transport resolved to:

- (A) approve the variation sought to Clause 30(1)(h) of State Environmental Planning Policy (Affordable Rental Housing) 2009 in accordance with Clause 4.6 of Sydney Local Environmental Plan 2012;
- (B) pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, grant deferred commencement consent to Development Application No. D/2018/340, subject to the conditions set out in [Attachment A](#) to the subject report, subject to the following amendments (additions shown in **bold italics** and deleted text shown in ~~strike through~~) which allows Room 6 to be used as single occupancy room, moves Condition 3 from Part A (Deferred Commencement Condition) to Part B (Conditions of Consent) and recalculate the Section 7.11 contributions payable to reflect the use of Room 6 as a single occupancy room, and to require payment of the Section 7.11 contribution prior to the issue of any occupation certificate or two years from the date of the development consent becoming operational, whichever occurs first. The remaining Part A (Deferred Commencement Conditions) are to be amended to be operative within 6 months rather than 24 months.

#### PART A – DEFERRED COMMENCEMENT CONDITIONS

##### **(CONDITIONS TO BE SATISFIED PRIOR TO CONSENT OPERATING)**

The consent is not to operate until the following conditions are satisfied, within ~~24~~ 6 months of the date of this determination:

##### **(1) AMENDED PLANS**

Amended plans are required to ~~delete reference to Bedroom 6 (to be amended to provide either a Manager's office and/or storage) and detailing~~ the maximum number of lodgers per room (as conditioned by this application), the location of the waste storage area, and including fixtures such as desks, chairs and bar fridges within the bedrooms.

**(4) BCA COMPLIANCE - CHANGE OF USE/CLASSIFICATION (NO BUILDING WORK PROPOSED)**

- (a) Pursuant to Clause 93 of the Environmental Planning and Assessment Regulation 2000, the whole building must comply with the Category 1 fire safety provisions and structural adequacy provisions as required by Clause 143 of the Regulations. Documentation detailing compliance with the provisions as prescribed below must be submitted and approved by Council's Area Planning Manager through Part 1.0 of the National Construction Code Volume Two:
- (i) Structural provisions - Part B1;
  - (ii) (Fire Separation – Part 3.7.1;
  - (iii) Smoke alarms and lighting to assist evacuation – Part 3.7.2;
  - (iv) Facilities – Part 3.7.1;
  - (v) Light – Part 3.8.4;
  - (vi) Ventilation – Part 3.8.5;
- (b) The measures listed in the following Fire Safety Schedule must be provided in the building in accordance with Clauses 93 and 168 of the Environmental Planning and Assessment Regulation 2000.

Note: The obligation under the above condition to comply with the Category 1 fire safety provisions \* may require building work to be carried out even though none is proposed or required in this consent. A Construction Certificate must therefore be obtained prior to work commencing for any building work required to be undertaken.

*\* Category 1 fire safety provisions are the following provisions of the Building Code of Australia, namely, EP1.3, EP1.4, EP1.6, EP2.1, EP2.2 and EP3.2 in Volume One of the Code and P2.3.2 in Volume Two of the Code.*

- (A) Evidence that will sufficiently enable Council to be satisfied as to those matters identified in deferred commencement conditions, as indicated above, must be submitted to Council within 24 6 months of the date of determination of this deferred commencement consent failing which, this deferred development consent will lapse pursuant to section 4.53(6) of the Environmental Planning and Assessment Act 1979.
- (B) The consent will not operate until such time that the Council notifies the Applicant in writing that deferred commencement consent conditions, as indicated above, have been satisfied.
- (C) Upon Council giving written notification to the Applicant that the deferred commencement conditions have been satisfied, the consent will become operative from the date of that written notification, subject to the conditions of consent, as detailed in Part B Conditions of Consent (Once the Consent is Operation) of the subject report.

**Condition (3) is to be relocated from Part A (Deferred Commencement Conditions) to Part B (Conditions of Consent), and the remaining conditions are to be renumbered accordingly.**

**SCHEDULE 1**

**(3) CONTRIBUTION TOWARDS PUBLIC AMENITIES – CITY OF SYDNEY DEVELOPMENT CONTRIBUTIONS PLAN 2015 – EAST PRECINCT**

Council has identified the development will increase demand for public amenities and facilities. Pursuant to Section 7.11 of the Environmental Planning and Assessment Act, 1979 (as amended), and the City of Sydney Development Contributions Plan 2015 the following monetary contributions are required towards the cost of public amenities.

<u>Contribution Category</u>	<u>Amount</u>
Open Space	<del>\$18,749.00</del> <b>\$25,129.00</b>
Community Facilities	<del>\$9,178.79</del> <b>\$12,301.95</b>
Traffic and Transport	<del>\$588.00</del> <b>\$788.00</b>
Stormwater Drainage	\$0.00
Total	<del>\$28,515.79</del> <b>\$38,218.95</b>

The City of Sydney will index the above contribution for inflation at the time of payment using the following formula.

$$C_{\text{payment}} = C_{\text{consent}} \times (CPI_{\text{payment}} \div CPI_{\text{consent}})$$

Where:

$C_{\text{payment}}$  = Is the contribution at time of payment;

$C_{\text{consent}}$  = Is the contribution at the time of consent, as shown above;

$CPI_{\text{payment}}$  = Is the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics that applies at the time of payment; and

$CPI_{\text{consent}}$  = Is the Consumer Price Index (All Groups Index) for Sydney at the date the contribution amount above was calculated being – 114.0 for the June 2018 quarter.

The contribution must be paid prior to the activation of the consent in relation to this development.

Please contact Council's Planning Administration staff at [planningsystemsadmin@cityofsydney.nsw.gov.au](mailto:planningsystemsadmin@cityofsydney.nsw.gov.au) to request a letter confirming the indexed contribution amount payable.

Once the letter confirming the indexed contribution is obtained, payment may be made at any of the City's Neighbourhood Service Centres or the One Stop Shop at Town Hall House. Acceptable payment methods are EFTPOS (debit card only), cash or a bank cheque made payable to the City of Sydney. Personal or company cheques will not be accepted.

- (a) The contribution is payable prior to the issue of any occupation certificate, or within 24 months of the date of the consent, whichever is earlier.**
- (b) The contribution is to be revised to include the occupancy of Room 6 by a single occupant.**

#### **(9) LIMIT OF RESIDENTS**

There shall be no more than ~~8~~ **9** residents residing in the premises at any given time. The following restriction on maximum lodgers per bedroom applies:

- Bedroom 1 (Ground floor) – 2 lodgers
- Bedroom 2 (First floor – front) – 2 lodgers
- Bedroom 3 (First floor – middle) – 1 lodger
- Bedroom 4 (Second floor – front) – 2 lodgers
- Bedroom 5 (Second floor – middle) – 1 lodger
- Bedroom 6 (Second floor – rear) – ~~0~~ **1** lodger

~~Bedroom 6 shall be used as a manager's office and/or store room.~~

**All reference to the deletion of Bedroom 6 is to be removed.**

Carried unanimously.

D/2018/340

## Reasons for Decision

The application was approved for the following reasons:

- (A) The proposed development is consistent with the objectives of the B4 Mixed Use zone.
- (B) The proposed development is consistent with the relevant objectives and controls outlined in State Environmental Planning Policy (Affordable Rental Housing) 2009, Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.
- (C) The exception to Clause 30(1)(h) regarding the minimum motorbike parking standard in State Environmental Planning Policy (Affordable Rental Housing) 2009 is approved as the Panel is satisfied that the matters required to be demonstrated by Clause 4.6 of the Plan have been adequately addressed, and the request to vary the standard would be in the public interest as it is consistent with the objectives of that particular standard with regard to the site's proximity to public transport, services, employment, education, and leisure facilities.
- (D) The proposed development provides affordable housing on the site without adversely impacting the character of the Bourke Street North Conservation Area (C59).
- (E) The use of Room 6 as a single occupancy room will not result in unacceptable amenity impacts to future occupants as the room has access to natural ventilation and solar access, access to the courtyard and amenities, and the panel were of the opinion that the deletion of this room was unreasonable.
- (F) The Panel also required deferred commencement conditions to be satisfied within 6 months rather than 24 months as the conditions require important fire safety assessment to be completed and the building is currently being used as a boarding house.
- (G) The Panel also allowed Section 7.11 contributions to remain payable within 24 months rather than 6 months to ensure there is no impediment to any necessary fire upgrade works being completed.