

Resolution of Local Planning Panel

20 February 2019

Item 3

Development Application: 29-33 Balfour Street, Chippendale

The Panel:

- (A) upheld the variation sought to the Height in Buildings development standard in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012;
- (B) upheld the variation sought to the Floor Space Ratio development standard in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012; and
- (C) granted consent to Development Application No. D/2018/1097 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~~):

(4) TERRACE HOURS OF OPERATION - SENSITIVE USES

The hours of operation of the roof terrace are regulated as follows:

- (a) The hours of operation of the roof terrace must be restricted to between 7:00am and 8:00pm Monday to Friday.
- (b) Notwithstanding (a) above, the use of the terrace may operate between 8:00pm and 10:00pm **during Australian Daylight Saving Time** for a trial period of 12 months from the date of issue of the Occupation Certificate. Council's Planning Assessments Unit is to be informed in writing of the date of commencement of the trial hours. Email notification is to be sent to DAsubmissions@cityofsydney.nsw.gov.au
- (c) A further application may be lodged to continue the operating hours outlined in (b) above 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.

(5) MAXIMUM CAPACITY OF PERSONS ON TERRACE

The maximum number of persons permitted on the ~~outdoor~~ **eastern** roof terrace at any one time is 166 persons. ***The western roof terrace is non-trafficable and for service access only.***

(9) COMPLIANCE WITH THE ACOUSTIC REPORT PRIOR TO CONSTRUCTION AND OR OCCUPATION CERTIFICATES

- (a) All performance parameters, requirements, engineering assumptions and recommendations contained in the acoustic report prepared by Wood & Grieve Engineers dated 15/1/~~198~~, ref 38720, titled 29-43 Balfour Street, Chippendale Acoustic Report, Council Ref 2019/026426 and must be implemented as part of the detailed design assessment and implemented into the design drawings prior to the commencement of the use of the premises in accordance with the requirements of (b) and (c) below and to the satisfaction of the Principal Certifier.
- (b) Prior to the issue of a Construction Certificate, the construction drawings and construction methodology must be assessed and certified by a suitably qualified acoustic consultant* (see definition below) to be in accordance with the requirements of the DA acoustic report set out below. Specifically, the consultant will prepare a written Acoustic Certification Report with reference to drawings, to the satisfaction of the Principal Certifier.
- (c) Prior to the issue of an Occupation Certificate, a suitable qualified acoustic consultant is to provide a written Acoustic Verification Report to the satisfaction of the Principal Certifier that the development complies with the requirements set out in the Report and in (a) and (b) above.

Note: Suitably qualified Acoustic Consultant means a consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustics Society, Institution of Engineers Australia or the Association of Australian Acoustic Consultants at the grade of member.

(11) PRIVACY BLINDS

- (a) ***Privacy blinds are to be installed on the three windows facing the adjoining property on the first and second floor.***
- (b) ***Opposite the core the blinds are to be closed when the building is occupied at sunset.***

(12) ACOUSTIC SCREENING

The specification of the acoustic screening of the plant on the western terrace is to be submitted for approval by the Director City, Development and Transport prior to the issue of a Construction Certificate.

Reasons for Decision

The application was approved for the following reasons:

- (A) The proposal is consistent with the objectives of the B4 Mixed Use zone in that it provides for a range of compatible land uses and will support the viability of the surrounding centre.
- (B) The requested variation to the Height of Buildings is supported because the consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be addressed by Clause 4.6 of the Sydney Local Environmental Plan 2012 and the proposed development would be in the public interest because it is consistent with the objectives of Clause 4.3 Height of Buildings and the B4 Mixed Use zone.
- (C) The requested variation to the Floor Space Ratio is supported because the consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be addressed by Clause 4.6 of the Sydney Local Environmental Plan 2012 and the proposed development would be in the public interest because it is consistent with the objectives of Clause 4.4 Floor Space Ratio and the B4 Mixed Use zone.
- (D) The proposal is considered to exhibit design excellence in accordance with Clause 6.21 of the Sydney Local Environmental Plan 2012.
- (E) The proposal is considered appropriate within its setting and is generally compliant with the other relevant planning controls contained in the Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.
- (F) The proposed use is compatible with the mixed use nature of the area and it is considered that the development will not result in unreasonable impacts to nearby residential properties, subject to the attached conditions.
- (G) Condition 4 was amended to limit use of the proposed terrace to 10.00pm during daylight savings time only during the trial period of one year. Council can then monitor the potential impacts of the use of this space at night and assess the acceptability of an extended trial period after 12 months of operation.
- (H) Condition 5 was amended to ensure that the western roof terrace is non-trafficable and cannot be used by office staff.
- (I) Condition 9 was amended to correct the date of the referenced acoustic report.
- (J) Condition 11 was added to prevent overlooking and light spill from the development site into the adjoining properties.
- (K) Condition 12 was added to require that the details of the acoustic screening of the plant on the western terrace is to be submitted for approval to allow for the protection of neighbouring amenity.

Carried unanimously.

D/2018/1097