

## Relevant Information for Local Planning Panel

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**FILE:** D/2020/1397 **DATE:** 28 April 2021

**TO:** Local Planning Panel Members

**FROM:** Andrew Thomas, Executive Manager Planning and Development

**SUBJECT:** Information Relevant To Item 3 – Development Application: 262 Liverpool Street, Darlinghurst - D/2020/1397

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### Alternative Recommendation

It is resolved that consent be granted to Development Application No D/2021/1397, subject to the conditions detailed in Attachment A to the subject report, subject to the following amendments (additions shown in ***bold italics***, deletions shown in ~~strikethrough~~):

#### (2) DESIGN MODIFICATIONS

The following design modifications are to be submitted to, and are to be approved by, Council's Area Planning Manager prior to a Construction Certificate ***for these works*** being issued:

- (a) The whole of the proposed lift assembly including the lift shaft, doors, connecting bridges, and handrails, proposed to the interior to the auditorium in the current form is not approved. The lift structure is to be amended to ensure the lift assembly, car and bridges are as transparent and minimal including as follows:
  - (i) Within the auditorium space, the revised design for the lift assembly and connecting bridges is to be as transparent as possible, utilising clear glazing for the shaft, the lift car and lift doors, and the balustrades. Glazing should be frameless with the supporting structure, handrails and handrail supports located internal to the glazing.

- (ii) The width of the bridges should be as minimal as feasible. The bridge floors should be glazed, with non-slip and obscure glazing as required. The suspended ceilings under the bridges are to be deleted. The main structural members could be inset so that the edges of the bridges are able to be as fine as possible. Consideration is to be given to glass beams.
- (iii) The design of the structural members supporting the shaft and the bridges is to ensure the members are of a minimal cross-sectional size and that the profile of the members should be open rather than rectangular hollow sections. The glazing should be external to all structure and be frameless.
- (iv) The handrails are to be designed to be as minimal as feasible and set behind frameless glazing, whilst complying with BCA and the Australian Standards. The material of the handrails is to be patinated bronze or an approved alternative.

### **(3) DESIGN DETAILS**

The following design details are to be submitted to, and are to be approved by, Council's Area Planning Manager prior to a Construction Certificate **for these works** being issued:

- (i) The proposed wall panel installation in the auditorium.
- (ii) The proposed operable curtain system dividing the entry hall.
- (iii) The three pairs of double doors located within existing openings on the western side of the entry hall providing access to the auditorium and the northern stair lobby.
- (iv) The commercial office partitions within the main auditorium which are to be as transparent as feasible.

### **(29) TOILETS FOR FOOD HANDLERS**

- (a) Adequate toilet facilities must be available for food handlers working for the food business. Toilets and associated facilities must be provided in accordance with AS4674 – Design, Construction and Fit-out of Food Premises and the Australia New Zealand Food Standards Code, 3.2.3 - Food Premises and Equipment.
- (b) Details of the location of toilets which are provided ~~exclusively~~ for the use of food handlers and staff working at the business must be submitted for the approval of the Accredited Certifier prior to the issue of a Construction Certificate.
- (c) The toilet(s) must be provided with a hand wash basin, with hot and cold running water mixed through a common spout, hand wash soap, hygienic hand drying facilities and hands-free taps.

## Background

Additional submissions have been received following the publication of the subject LPP report on the City's website. These submissions are from both surrounding residents and the applicant.

### ***Additional Submissions***

At total of four additional submissions have been received. Generally, these raised matters which were addressed as part of the LPP report. Those matters which were not specifically covered by the LPP report are addressed below.

**Issue:** The proposed office partitions within the main hall will detract from the acoustic quality of the space and therefore the significance of the organ.

**Response:** As originally approved under D/2018/1526, the platform and mezzanine within the main hall were provided with a predominately open plan arrangement with two separate meeting rooms on the upper level, these drawings can be found in Attachment C of the LPP report.

The proposed arrangement of the fit out of the office premises is typical of an office premises to support its function. Within the main hall the fit out consists of the installation of partitions on the lower and upper levels of the previously approved mezzanine structure.

The partitions are approximately 2.4m in height and sit below the underside of the mezzanine and well below the ceiling of the hall. The proposed fit out works within the platform and mezzanine structure are entirely reversible.

The proposed partitions are setback from the organ and the curtains adjacent to the organ can be partially retracted to minimise the impact on the acoustic quality of the organ.

As noted in the LPP report nothing in the current proposal prohibits the use and access to the organ as required by the existing consent on the site (D/2018/1526). The adopted organ management plan under this previous consent includes a commitment from the site owner to hold two public events to witness the use of the organ.

**Issue:** The organ should be relocated to another property due to the detracting impact of the proposal.

**Response:** Relocation of the organ is substantially different from the proposal being considered by the Panel and would conflict with the current consent D/2018/1526. For the organ's removal to be considered an updated heritage impact assessment is needed as well as a clear plan and commitment from relevant parties. For example, the party who is to receive the organ detailing the proposed location, management arrangements and updated heritage impact assessment. Removal of the organ is inconsistent with the current heritage management approach.

## ***Applicant Submission***

A submission received from the applicant's representative seeks amendments to four of the recommended conditions (the full submission can be found in Attachment A). The conditions the applicant is seeking to have amended are:

- Condition 2 - Design Modifications
- Condition 3 - Design Details
- Condition 4 - Use of Entry Hall
- Condition 29 - Toilets for Food Handlers

The requested alterations to the conditions are discussed below.

### **Condition 2 – Design Modifications and Condition 3 – Design Details**

The applicant is seeking to have conditions 2 and 3 amended to require the submission of the necessary drawings/details prior to the issue of a Construction Certificate for the works under the conditions. The applicant submits that the amendments are required to allow the already well-advanced fit out works to continue on the site.

Condition 2 relates to the installation of the lift within the main hall while Condition 3 relates to various design details associated with the office premises and exhibition space fit out.

The proposed modification of the conditions is supported in this instance as it will allow the works to continue and design details can be resolved between the City and the applicant with reduced time pressures.

The amendment of the conditions is recommended to be supported as outlined above.

### **Condition 4 – Use of Entry Hall**

The applicant submits that the Paul Ramsay Foundation would like to amend the wording of this condition to allow the use for hosting events in conjunction with partner organisations that it supports as part of its charitable mission. The applicant submits that the use of the Entry Hall will be for events which are in the public interest. The proposed modification of the condition is shown below with amendments in ***bold italics***.

#### **(4) USE OF ENTRY HALL**

- (a) The Entry Hall (also known as the Great Hall) shall only be used as an *information and education facility* as defined by the Sydney Local Environmental Plan 2012 ***with the use of the site by the charitable foundation and which use may include hosting events in conjunction with partner organisations that it supports as part of its charitable mission.***
- (b) The entry hall must not be operated as a function space for third party users that are not tenants of the site.

The modification proposed by the applicant is not supported. No detail has been provided regarding the nature of these events. Concern is raised that amendment of the condition as proposed would be inconsistent with the *information and education facility* use. Amendment of the condition would reduce certainty for the City and the community. Additionally it should be noted that *function centres* are prohibited in the R1 – General Residential zone which applies to the site.

Condition 29 – Toilets for Food Handlers

The applicant submits that given the heritage constraints of the building and the small-scale nature of the proposed food and drink premises, the provision of an exclusive bathroom for the use of the food handlers will be challenging for the project.

The applicant's submission is supported and the requirement for the provision of exclusive toilet facilities has the potential for unnecessary heritage impacts. The condition will still require toilets to be available for staff of the food and drink premises.

The amendment of the condition is recommended to be supported as outlined above.

Prepared by: Patrick Quinn, Area Coordinator

**Attachments**

**Attachment A.** Additional Submissions

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Approved



**ANDREW THOMAS**

Executive Manager Planning and  
Development

# **Attachment A**

**Additional Submissions**

**Dr Kelvin Hastie OAM**

PhD (Syd), MPhil, MA, DipEd

**Pipe Organ Consultant**

PO Box 505 Miranda NSW 1490

23 April 2021

**FURTHER RESPONSE – FORMAL OBJECTION:  
D/2020/1397 – 262 Liverpool Street, Darlinghurst, 2010  
Former First Church Christ Scientist, Darlinghurst**

secretariat@cityofsydney.nsw.gov.au

**1. DISCLOSURE STATEMENT**

I am a contractor for Sydney City Council in the provision of consulting services for the 1886-89 Hill & Son Grand Organ in the Centennial Hall (Sydney Town Hall).

Since 2009 I have provided the Sydney City Council with a Condition Audit for the Grand Organ, developed job plans for work on the organ, issued numerous progress reports on completed work and in 2015 developed a Conservation Management Plan which complies with *NSW Heritage: Pipe Organ Conservation and Maintenance Guide* (NSW Heritage Office and Organ Historical Trust of Australia, 1998), itself based on the principles of the *Illustrated Burra Charter* (Australia ICOMOS, Sydney, 1992 version).

**2. FORMAL OBJECTION TO D/2020/1526**

On 15 February 2021 I submitted a Formal Objection to D/2020/1526 based on the failure of the proposals to comply with the principles of the *Australia ICOMOS Burra Charter, 2013*, notably in terms of Articles 7 and 8 which relate to setting, place and – importantly – compatible use.

One of my recommendations was that a new home for the organ be found, in consultation with the Organ Historical Trust of Australia, as the building alterations already completed, together with those proposed, do not provide an environment that is compatible with the organ's reasonable use as a musical instrument.

I am concerned that the objections I raised have not been fully addressed, or even understood.

### **3. FURTHER RESPONSE**

The Council, in notes for the LPP, has responded to objections to D/2020/1526 related to the organ as Issue 47, items (i) and (r). The Council claims that nothing in the application prevents the organ from being used (page 26) and that access to the organ is required by D/2018/1526 (page 27).

While the response of the Council may be true in bureaucratic terms, it is not a reasonable response in terms of a realistic acoustical and musical future for this notable organ.

I need to stress again the importance of acoustical environment to the sound of the organ. Everything from the application of wind pressures, the number of stops, the design of the pipes, the materials used, and the voicing, regulating and positioning of the pipes, was calculated with the acoustics of a large open building and its acoustical environment fully taken into account.

It is not acceptable to trivialise the importance of the space on the conservation of the organ, especially in terms of *The Burra Charter*. Furthermore, it is not acceptable for a series of development applications to be made to the Council, each one representing a further erosion of the environment into which this significant heritage organ speaks.

Neither the Council, nor those firms engaged by the developers, have provided any evidence that they have sought or received advice from professional organ consultants, organists or acousticians with specialist knowledge of sound environments, professionals who could provide valid advice on the impact of closing off so much of the interior of the Auditorium on the sound of the organ. There is, for example, an Australian Acoustical Society that has expertise in the field of musical acoustics and can access best-practice at an international level, such advice relying on a depth of knowledge based on training, research, technology and – above all – experience.

While the Council applied conditions (2f, 33 and 34) to D/2018/1526, related to an organ management plan, retention of the organ chamber and maintenance, such conditions are worthless if the organ cannot be reasonably used as a musical instrument.

### **4. RECOMMENDATION**

While it is always preferable for an organ to be preserved and used in its original home, there comes a point where this is no longer realistic or reasonable. If the present DA is approved, this point will have been reached, unless the Council or the firms employed by the developers can provide evidence to the contrary, based on the advice of professional organ consultants, organists or acousticians with expertise in music.

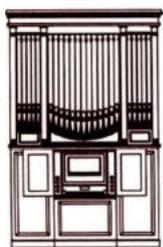
The cost of relocating the organ would be substantial – far more than keeping the organ *in situ*. As mentioned in my submission of 15 February 2021, relocating the organ should be done in

conjunction with the Organ Historical Trust of Australia and after a suitable new home is found, such as a large church, civic hall or school performing arts facility, etc. Such a move would need to be carefully managed so that the organ's immense heritage value is retained.

Yours sincerely,



Kelvin Hastie



**ORGAN  
HISTORICAL  
TRUST OF  
AUSTRALIA**  
ACN 005 443 372

PO Box 204  
Wahroonga NSW 2076

23 April 2021

DA Submissions  
City of Sydney  
GPO Box 1591  
SYDNEY NSW 2001  
([dasubmissions@cityofsydney.nsw.gov.au](mailto:dasubmissions@cityofsydney.nsw.gov.au))

**D/2020/1397 - 262 Liverpool St, Darlinghurst**  
(Former First Church of Christ Scientist)

Our organisation submitted an objection to this proposal on 24 February 2021, concerning the maintenance and use of the heritage pipe organ.

The Council has responded as follows, in the notes prepared for the forthcoming meeting of the Local Planning Panel.

**Item (i)**

Issue: The submitted plan of management ignores the use of the organ.  
D/2018/1526 required that the auditorium was to be made available for public organ and chamber music recitals.

Response: Conditions of consent related to the use of the site and the organ remain in force even if the subject application is approved. Nothing in this application prevents the use of the organ as required under D/2018/1526.

**Item (r)**

Issue: If this application is approved it will result in the organ not being used due to the likely conflict between the organ being played and the office space be used at the same time.

Response: The access to the organ as required by D/2018/1526 will continue to be required.

It is pleasing that these conditions have been confirmed. However, our submission went on to comment on the unfavourable acoustic environment for the organ, due to the addition of

sound absorbent materials, especially in the enclosed office spaces which are to have 2.4 m high partitions, instead of the open plan arrangement previously approved. The organ was designed with power to fill the original large auditorium, whereas the emphasis in the new DA is on reduction of noise. If the acoustics of the space for music are to be further compromised, the effort and expense entailed in the Organ Management and Organ Maintenance Plans could be wasted. It would be better to consider transfer of the pipe organ to another more suitable space, such as a church, school or civic hall. However, the expense of moving, storage and re-erection would be considerable.

It is therefore suggested that amendments be made to the development conditions, such as:-

1. The effect of the alterations and additions on the acoustics of the auditorium on the sound of the heritage pipe organ is to be examined.
2. If a satisfactory compromise cannot not achieved, consideration should be given to the transfer of the organ to another location, as approved by the Organ Historical Trust of Australia.

As previously mentioned, The Organ Historical Trust of Australia (OHTA) may be able to assist in the relocation of redundant organs, as we provide a listing on our website to enable churches to contact owners or custodians. A co-ordinator arranges listing with details of the instrument and the person to contact. In recent years there have been a number of successful cases of instruments being relocated. (Please refer to [www.ohta.org.au](http://www.ohta.org.au) under 'redundant organs').

Yours faithfully



Director

23 April 2021

The Secretariat  
Local Planning Panel  
Email: secretariat@cityofsydney.nsw.gov.au

**Re: Dev Application: D/2020/1397, 262 Liverpool Street, Darlinghurst:**

*PAN-57031 Internal fit-out for an office premises, new mechanical exhaust and use of part of the ground floor for a food and drink premises (cafe).*

I wish to make the following written submission in relation to the above Development Application being heard by the LPP on Wednesday 28 April 2021.

**BACKGROUND:**

I note that in the papers prepared by Council for consideration by the LPP, Council recommends approval of D/2020/1397, subject to conditions set out in Attachment A.

Assessment Item 49, pg 28, states: *"The proposal supports the ongoing retention and conservation of the heritage item."*

Assessment Item 50, pg 28, states: *"Subject to conditions, the proposed works have an acceptable impact on the heritage significance of the site."*

Council's Reason (B), pg 3, for its recommended approval is that:

*"(B) The proposed works are generally compatible with the heritage significance of the site, the exception being the proposed lift installation which is recommended to be addressed by conditions of consent."*

**COMMENT:**

**Based on the objection I previously lodged to D/2020/1397 on 09 February 2021, I wish to make the following additional comments on Council's assessment, particularly in relation to its review of the impact of the latest fitout proposal on the heritage organ:**

1. The approved D/2018/1526 fitout scheme, for both the ground floor and the mezzanine, indicated open plan workstations without screens, which minimised the visual and acoustic intrusion of the mezzanine. This allowed organ and other music recitals to continue to be appreciated within the space that was designed for them.
2. Council's assessment of D/2020/1397 all but ignores the detrimental impact that the revised fitout – 2.4m high screened cubicles, enclosed offices, acoustic curtains, wall panels, and full height joinery units – will have on the already compromised acoustic of the heritage auditorium and its critical relationship to the heritage organ.
3. In its discussion paper prepared for the LPP, Council dismisses the objections raised about the lack of objective assessment of the diminished capacity of the auditorium to allow the tonal qualities of the heritage organ to be fully appreciated. (See below.)

**DETAILS to support the above comments:**

Under 'Heritage', Items 27-51, pgs 20 to 28 of its discussion paper, Council notes:

- Issue 47 (i) (pg 26): *The submitted plan of management ignores the use of the organ; D/2018/1526 required that the auditorium was to be made available for public organ and chamber music recitals.*

Council Responds: *Conditions of consent related to the use of the site and the organ remain in force even if the subject application is approved. Nothing in this application prevents the use of the organ as required under D/2018/1526.*

- Issue 47 (r) (pg 27): *If this application is approved it will result in the organ not being used due to the likely conflict between the organ being played and the office space be used at the same time.*

Council Responds: *The access to the organ as required by D/2018/1526 will continue to be required.*

I note the following Conditions of D/2018/1526:

- Condition (2)(f) requires: *An Organ Management Plan, including a commitment to hold a number of public events to witness the use of the organ, is to be submitted following consultation with the Organ Historical Trust of Australia.*
- Condition (33) requires: *RETENTION OF ORGAN CHAMBER: The organ chamber is to be retained in full and must be adequately protected to ensure its retention during construction works.*
- Condition (34) requires: *ORGAN AND ORGAN CHAMBER MAINTENANCE: The approved Maintenance Plan is to be amended to include details on the maintenance of the existing pipe organ and associated chamber. This amendment is to be approved by Council's Area Planning Coordinator/ Area Planning Manager prior to issue of a Construction Certificate.*

I wish to point out that, although Council continues to require compliance with Conditions 2(f), 33, and 34 of D/2018/1526, it fails to acknowledge that the organ, even if properly retained and maintained, can no longer be appreciated in an auditorium space that has been compromised by an insensitive office fitout.

## **SUBMISSION**

**I propose the following AMENDMENTS to the proposed Conditions of Consent:**

1. That Condition (15), PLAN OF MANAGEMENT, be amended by adding the following:  
The Tomasy Plan of Management 16 Dec 2020 is to also acknowledge and reference:
  - (a) the Organ Management Plan required as a Condition 2(f) of D/2018/1526; and
  - (b) the Organ Maintenance Plan required as a Condition 34 of D/2018/1526.
2. That Condition (17), ACOUSTIC REPORT, be amended by adding the following:  
The ADP Consulting Report dated 1 October 2020 is to also:
  - (a) determine the minimum acoustic requirements of the auditorium as a space suitable for the tonal qualities of the heritage organ; and
  - (b) assess the impact of the proposed fitout on the requirements determined in (a) and make recommendations to achieve compliance.

(ADP's Acoustic Report 1 October 2020 currently makes no mention of the acoustic requirements of an auditorium as a place suitable for organ recitals.)

Regards

[Redacted Signature]

23 April 2021

Patrick Quinn  
Area Coordinator  
City of Sydney

Via email: [pquinn@cityofsydney.nsw.gov.au](mailto:pquinn@cityofsydney.nsw.gov.au)

Dear Patrick

**RE: 262 LIVERPOOL STREET, DARLINGHURST NSW 2010  
DEVELOPMENT APPLICATION NO: D/2020/1397**

The purpose of this letter is to express concerns around the current wording of the Recommended Conditions of Consent which are currently proposed for the subject development application D/2020/1397 which is set for the agenda of the Local Planning Panel (LPP) meeting on the 28<sup>th</sup> of April 2021. We respectfully request further consideration as set out below.

There are four recommended conditions of consent which we would like to express concerns with as follows:

- **Condition 2 - Design Modifications**
- **Condition 3 - Design Details**
- **Condition 4 - Use of Entry Hall**
- **Condition 29 - Toilets for Food Handlers**

The applicant has provided a detailed response to each of these conditions as well as proposed modifications to the wording of these conditions within the content of this letter.

### **Condition 2 Design Modifications**

An extract of the current wording of this condition is provided for ease of reference:

*“The following design modifications are to be submitted to, and are to be approved by, Council’s Area Planning Manager prior to a Construction Certificate being issued:*

*(a) The whole of the proposed lift assembly including the lift shaft, doors, connecting bridges, and handrails, proposed to the interior to the auditorium in the current form is not approved. The design of the lift structure is to be amended to ensure the lift assembly, car and bridges are as transparent as possible so as to minimise its impact on the significance of the interior space. In this regard:*

*(i) Within the auditorium space, the revised design for the lift assembly and connecting bridges is to be as transparent as possible, utilising clear glazing for the shaft, the lift car and lift doors, and the balustrades. Glazing should be frameless with the supporting structure, handrails and handrail supports located internal to the glazing.*

*(ii) The width of the bridges should be as minimal as feasible. The bridge floors should be glazed, with non-slip and obscure glazing as required. The suspended ceilings under the bridges are to be deleted. The main structural members could be inset so that the edges of the bridges are able to be as fine as possible. Consideration is to be given to glass beams.*

*(iii) The design of the structural members supporting the shaft and the bridges is to ensure the members are of a minimal cross-sectional size and that the profile of the members should be open rather than rectangular hollow sections. The glazing should be external to all structure and be frameless.*

*(iv) The handrails are to be designed to be as minimal as feasible and set behind frameless glazing, whilst complying with BCA and the Australian Standards. The material of the handrails is to be patinated bronze or an approved alternative.”*

Given the timing constraints of this project, which has a base building package under construction that requires integration works, it is proposed that Council consider rewording the DA condition as follows:

*“The following design modifications are to be submitted to, and ~~are~~ be approved by, Council’s Area Planning Manager prior to a Construction Certificate **for these works** being issued:*

The above amended wording should provide Council with the comfort that these works will need to be resubmitted for approval by Council before proceeding but will not hold up the remainder of the project from progressing to Construction Certificate stage while the updated design is being documented and resolved with Council.

In addition to the above, we provide the following additional considerations for Council before the wording of the condition is finalised.

- It is our understanding that under the wording of the current condition, if the DA were to be approved, the Area Planning Manager may not have the authority to approve the current design in the event that it is deemed to be a satisfactory outcome following a review of more detailed information to be submitted by the applicant under this condition. The wording as follows; *“...in the current form is not approved. The design of the lift structure is to be amended...”* should be reconsidered to provide Council with the scope to provide approval of the lift in a design which is close to its current form.
- We note that detailed investigations into the mezzanine lift were completed both prior to, and in parallel with, the subject development application. The current form of the lift has been developed with particular consideration of the following:
  - o From an architectural perspective, the following key issues were identified and have been responded to in the current design:
    - A glass lift would introduce a new ‘glossy’ object to the heritage space which has the potential to detract from the existing fabric. A glass lift would become a focal point for the space rather than forming something which sits in the background.
    - The solid lift enclosure is intended to be a canvas for a new commissioned art piece by the Paul Ramsay Foundation as part of their ongoing art acquisition program.
  - o The construction of a glass lift presents buildability issues with the lifting and handling of large glass panels within the existing space presenting a significant challenge for the project.

- The structural requirements of a lift shaft which does not have the opportunity to be tied into substantial adjoining structures as the lift is set out from the existing wall for heritage reasons and does not tie into the roof above, must be considered. The reduced opportunity for tie in with the surrounding structure impacts upon the strength and therefore type materials required for construction.
- There are important acoustic requirements of a lift which is located within an office space. A glazed lift car and shaft may have difficulty reaching the same level of acoustic performance as a lift in the currently proposed form.
- The height and depth of the lift pit and shaft has been determined based upon the current form and materiality. A change in materials has the potential to impact on the ability for the lift to fit within the existing heritage site constraints.
- Given the small scale of this lift, the density of the electrical and mechanical components is such that it still will not read as a pure glass prism.
- The location of the lift between 2 north facing windows (to avoid obstruction of light into the space where possible) presents the potential for head load issues within the lift which could result in discomfort for occupants.
- The heritage architect has supported the lift in its current form owing to its reversibility and its setback from the existing heritage fabric.

We are hopeful that a change in the wording of this condition can be accommodated so that the best outcome for the mezzanine lift can be investigated in parallel with a construction certificate being issued for the balance of the works.

### Condition 3 Design Details

An extract of the current wording of this condition is provided for ease of reference:

*“The following design details are to be submitted to, and are to be approved by, Council’s Area Planning Manager prior to a Construction Certificate being issued:*

- i. The proposed wall panel installation in the auditorium.*
- ii. The proposed operable curtain system dividing the entry hall.*
- iii. The three pairs of double doors located within existing openings on the western side of the entry hall providing access to the auditorium and the northern stair lobby.*
- iv. The commercial office partitions within the main auditorium which are to be as transparent as feasible.*

Given the timing constraints of this project we would like to propose that the Council consider rewording the DA condition as follows:

*“The following design details are to be submitted to, and ~~are~~ be approved by, Council’s Area Planning Manager prior to a Construction Certificate **for these works** being issued:*

Again, the above amended wording should provide Council with the comfort that these works will need to be resubmitted for approval before proceeding but will not hold up the remainder of the project from progressing to Construction Certificate stage while the detailed design is being documented and resolved with Council to their satisfaction.

#### Condition 4 Use of Entry Hall

An extract of the current wording of this condition is provided for ease of reference:

- (a) *“The Entry Hall (also known as the Great Hall) shall only be used as an information and education facility as defined by the Sydney Local Environmental Plan 2012 in association with the charitable foundation use of the site.*
- (b) *The entry hall must not be operated as a function space for third party users that are not tenants of the site.”*

In relation to the above, the Paul Ramsay Foundation would like to propose a minor amendment to the wording of this condition to ensure that the site can be utilised for its intended use, which is to use the Entry Hall for its own purpose and which may include hosting events in conjunction with partner organisations that it supports as part of its charitable mission. The proposed amendment is as follows:

- (c) *“The Entry Hall (also known as the Great Hall) shall only be used as an information and education facility as defined by the Sydney Local Environmental Plan 2012 in association **with the use of the site by the charitable foundation and which use may include hosting events in conjunction with partner organisations that it supports as part of its charitable mission.**”*
- (d) *The Entry Hall must not be operated as a function space for third party users that are not tenants of the site or partner organisations of the charitable foundation as described in Condition 4(a).*

The above intends to provide Council and the Community with the comfort that the use of the Entry Hall will be for events which are in the public interest, and not functions for unrelated third parties, whilst providing the user of the site with the clarity to move forward with their intended vision for the space.

#### Condition 29 Toilets for Food Handlers

An extract of the current wording of this condition is provided for ease of reference:

- a) *“Adequate toilet facilities must be available for food handlers working for the food business. Toilets and associated facilities must be provided in accordance with AS4674 – Design, Construction and Fit-out of Food Premises and the Australia New Zealand Food Standards Code, 3.2.3 - Food Premises and Equipment.*
- b) *Details of the location of toilets which are provided exclusively for the use of food handlers and staff working at the business must be submitted for the approval of the Accredited Certifier prior to the issue of a Construction Certificate.*
- c) *The toilet(s) must be provided with a hand wash basin, with hot and cold running water mixed through a common spout, hand wash soap, hygienic hand drying facilities and hands-free taps.”*

Given the heritage constraints of the building and the small-scale nature of the proposed food premises, the provision of an exclusive bathroom for the use of the food handlers will be challenging for the project.

In addition to the above, previous advice from our BCA consultant on another application identifies the following issues with the wording of this condition:

- *“AS 4674 – Design, Construction and Fitout of Food Premises is not a requirement of the Building Code of Australia (2016). Clause F2.3 (d) of the Building Code permits employees and patrons to share sanitary facilities in class 6 buildings.*
- *The Australian and New Zealand Food Standards Code states that AS 4674 – Design, Construction and Fitout of Food Premises was designed to provide guidance on how to achieve compliance with the Australia Food Code therefore meaning the standard is not absolute for achieving compliance with this Code and is considered to be a guidance document.*
- *Although AS 4674 – Design, Construction and Fitout of Food Premises is not considered a*

*performance-based document like many other standards the provision for separate sanitary facilities for staff is written in such a way that it is a recommendation rather than a requirement.*

- **Clause 5.2.1 of the standard states that separate toilet facilities should be provided suggesting that the requirement is not mandatory.** Generally, words such as "shall" and "must" are used to require mandatory compliance with requirements in Australian Standards and the Building code of Australia.
- *In addition, the Australian and New Zealand Food Standards Code does not require separate sanitary facilities to be provided exclusively for staff members."*

Based upon the above, we request the following amendment to the recommended wording of Condition 29:

*"(b) Details of the location of toilets which are provided **exclusively** for the use of food handlers and staff working at the business must be submitted for the approval of the Accredited Certifier prior to the issue of a Construction Certificate."*

Should you require any further information with respect to this application please do not hesitate to contact the applicant.

Yours sincerely,



**Chief Operating Officer  
Paul Ramsay Foundation**