

**DEPARTMENT OF INFRASTRUCTURE,
PLANNING AND NATURAL RESOURCES**

PLANNING REPORT

DA No.	: 130-3-2003
FILE NUMBER	: S03/01017 Pt1
SUBJECT PROPOSAL	: External Lighting, Walsh Bay Theatre
LOCATION OF PROPOSED DEVELOPMENT	: Walsh Bay Theatre, Sites 33, 34(part) and 36 in SREP 16
APPLICANT	: Walsh Bay Finance Pty. Ltd Level 2, 20 Windmill Street Millers Point NSW 2000
APPLICATION DATE	: 27 March 2003

1.0 INTRODUCTION & SUMMARY

On 14 August 2001, the then Minister for Urban Affairs and Planning granted a conditional consent for the construction of a new theatre building in Walsh Bay (DA 354-10-00). Condition 15 (a) of the subject DA consent required that a separate development application be lodged for any external illumination or floodlighting. The theatre is currently under construction, and will start operating from January 2004. A copy of the approved DA consent for the theatre is tagged "A".

In accordance with the abovementioned consent, on 27 March 2003 Walsh Bay Finance Pty. Ltd. (the applicant) submitted a development application seeking approval for installation of external lighting for the theatre building, which is now known as the Sydney Theatre.

The proposed development is in the area covered by the *Walsh Bay Development (Special Provisions) Act 1999* where the Minister for Infrastructure, Planning and Natural Resources (the Minister) is the consent authority for this Development Application. Under the Instrument of Delegation, dated 4 August 2002, Schedule B Clause (l), applications involving external alteration or addition to a building, may be determined by Team Leaders and higher officers, with the Urban Assessments branch, if the Team Leader or higher officer forms the opinion that the work is of a minor

environmental impact. . The application is also integrated development under Section 91 of the *Environmental Planning and Assessments Act 1979* as Walsh Bay is listed on the State Heritage Register.

This planning report assesses the environmental and planning issues associated with the proposal and addresses the issues received in submissions, and it concludes that all relevant environmental issues have been adequately addressed and that potential impacts from the development can be managed subject to the recommended conditions of consent.

It is therefore recommended that the Team Leader, Urban Assessments, as delegate for the Minister, grant consent to DA 130-3-2003, subject to the conditions in the Notice of Determination (**Tag “B”**).

2. THE SITE

Walsh Bay theatre is located on Hickson Road, between piers 6/7 and 8/9 and opposite the new Shore Apartments 6/7 and 8/9 (**figure 1**). The surrounding locality is characterized by a mixture of residential, cultural and commercial buildings.

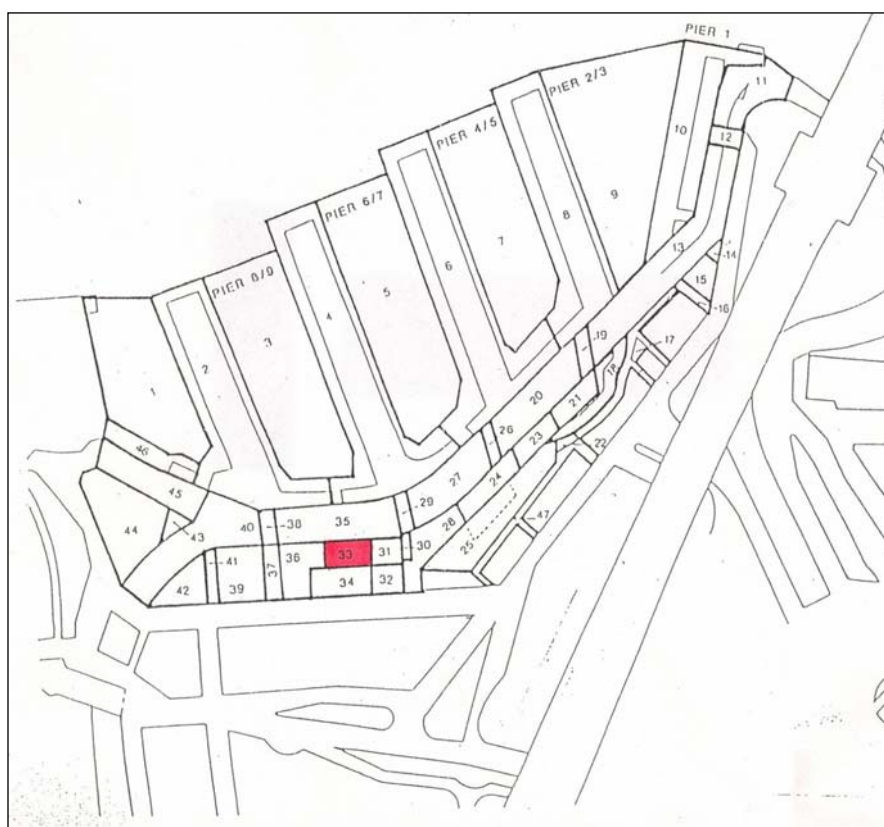


Figure 1, Site location

3. THE PROPOSAL

The proposed development provides exterior lighting on the Hickson Road facade of the new theatre building. The full extent of the proposed lighting is described in the

Statement of Environmental Effects submitted with the application. The Statement of Environmental Effects states that the exterior lighting is proposed to fulfil the following functions:-

- Wash selected parts of the building with light;
- Provide glitter and sparkle at the main entrance;
- Provide supplementary illumination to the footpath at the main entry area.

Additionally, there will be internally illuminated poster boxes recessed into the walls, however, the poster box illumination is not proposed as part of this consent.

It is also stated that the lighting installation has been designed to limit the impact of spill light and visible glare. It is also proposed that the exterior lighting at Walsh Bay Theatre will comply with both the pre-curfew and curfew hours recommended values of spill light and glare for residential areas at the boundary of commercial areas.

The application includes architectural drawings (Dwg No. 02/EL01 and 02/EL02) prepared by Haron Robson Pty Ltd and dated February 2003, Statement of Environmental Effects dated March 2003 and a Lighting Design Report prepared by Haron Robson Pty Ltd and dated 10 March 2003 (**tag “C”**).

4.0 STATUTORY CONTROL

Relevant statutory controls apply to the proposal are discussed below. An assessment of the proposed development under Section 79 C of the Environmental Planning and Assessment Act (EP&A Act) 1979 is provided at tag **“D”**.

4.1 Walsh Bay (Special Provisions) Act, 1999

The Walsh Bay Development (Special Provisions) Act 1999 makes the Minister consent authority for Development Applications within the area covered by Sydney Regional Environmental Plan No.16 – Walsh Bay. The Act also prevents appeals from being made against determinations under the Environmental Planning and Assessment Act 1979 (EP&A Act) or for the bringing of proceedings to restrain breaches of the EP&A Act in relation to the Walsh Bay development.

4.2 State Environmental Planning Policy No.56 –Sydney Harbour Foreshores and Tributaries

SEPP 56 applies to the development area and also establishes the Minister as the consent authority. The aim of SEPP 56 is to co-ordinate the planning and development of the foreshore of Sydney Harbour. SEPP 56 also establishes a set of guiding principles for the development of foreshore land.

Walsh Bay is identified by SEPP 56 as a Schedule 1 state significant development site. The Guiding Principles contained in Clause 7 of the SEPP apply to the development area. An assessment (**tag “E”**) has been carried out against the relevant

provisions of SEPP 56 and it is considered that the proposal generally complies with the policy.

4.3. Sydney Regional Environmental Plan No. 16 – Walsh Bay

SREP 16 aims to protect the heritage significance of Walsh Bay and ensure that new development is compatible with the existing structures. The proposed development is within Zone 1- Walsh Bay Conservation Zone and the proposal is permissible with consent.

SREP 16 also requires the consent authority to consider heads of consideration and the Walsh Bay Redevelopment Conservation Guidelines prior to determining any development application. The Guidelines identify the heritage significance of buildings and industrial relics, and recommends a policy of adaptive re-use. Building envelopes and view guidelines are also specified by the Guidelines.

An assessment has been provided at **tag “F”** and it concludes that the proposal complies, in general, with the relevant provisions of SREP16.

4.4 Heritage Act, 1977

The application is integrated development under the provisions of s91 of the Environmental Planning and Assessment Act, 1979, as Walsh Bay is listed on the State Heritage Register. As a result, an integrated approval is required under Section 58 of the Heritage Act, 1977. Accordingly, the NSW Heritage Council submitted their General Terms of Approval (**tag “G”**) on 27 June 2003, and they are incorporated within the conditions of consent. The development will also require the approval of the Heritage Council under Section 60 of the Heritage Act 1977.

5. STATE ELECTORATE & MEMBER

The subject site is located within the electorate of Port Jackson. The views of the local member, Sandra Nori MP, are not known.

6. PUBLIC CONSULTATION AND VIEWS FROM OTHER INSTITUTIONS

In accordance with the requirements of Section 14 of SREP 16 and s89 of the Environmental Planning and Assessment (Regulation) 2000, the development application was exhibited for a period of 30 days between 8 April and 7 May 2003 at both the Department’s Planning Centre and Sydney City Council’s One Stop Shop. The development application was advertised in Sydney Morning Herald on 7 April 2003, and a site notice was placed at Walsh Bay Theatre.

Sydney City Council (both Planning and Living City sections), the NSW Heritage Office, Sydney Harbour Foreshore Authority (SHFA), Department of Public Works and Services, Ministry of Arts, Waterways Authority, the National Trust, Sydney Observatory, the Rocks Resident Action Group and the Walsh Bay Wednesday Community Group were notified of the development application. The owners and occupiers of the adjoining properties were also notified by letter-box dropping.

Four submissions were received as a result of the consultation. These were from Sydney City Council's Living City Services, Sydney City Council Planning section, Sydney Observatory and SHFA. A summary of the submissions received and comments on the issues raised in the submissions is **tagged "H"**. Concerns raised in the submissions have been considered and where appropriate, conditions have been incorporated within the consent to ensure that the proposal will not generate any adverse impacts upon the amenity of the surrounding areas.

7. CONSIDERATION OF ISSUES

7.1 Consistency with Condition 15 of DA 354-10-00

Condition 15 (a) of DA 354-10-00 states that:

Separate development applications must be submitted for the following:

- a. *Any proposed external floodlighting or illumination of the buildings (to be accompanied by an energy efficient lighting management scheme). Night lighting should concentrate on lighting the visible façade of Bond Store 3 on heritage grounds, with due consideration to residential amenity.*

The above condition requires that any provision of external lighting will require a development application. Since the construction of the theatre building prevents the visibility of the Hickson Road façade of Bond 3, public appreciation of the remaining part of the Bond 3 facade was a considered during the assessment of the development application of the Walsh Bay theatre. Accordingly the above condition aims to provide external illumination to emphasize the heritage character of Bond 3 building.

Notwithstanding the above condition, the current application does not provide any night-time lighting for the Bond 3 façade. The SEE argues that Walsh Bay is a predominantly residential precinct where the majority of buildings are not illuminated. Accordingly the SEE assumes that such arbitrary illumination of the Bond 3 façade, would result in a false perception of the significance of the building in the Walsh Bay precinct. In addition, the SEE also argues that the nearby residential developments, in particular the Bond 4 building, and Sydney Observatory, may be concerned by provision of night-time illumination of the Bond 3 building.

In addition to the applicants above justification for not illuminating the Bond 3 building, site visits revealed that the new theatre conceals the vast majority of the Bond 3 building and only a small part of the subject façade is visible from Hickson Road (Figure 2).

Accordingly given the applicants justification on this issue and the limited visibility of Bond 3 from Hickson Road, it is considered that any external illumination focused on the Hickson Road Façade of Bond 3 would not result in a good outcome in terms of ensuring public appreciation of the heritage significance of the Bond 3 building.



Figure 2, Bond 3 Elevation form Hickson Road

7.2 Illumination Impacts

Given the location of the Theatre building on Hickson Road and its proximity to nearby residential developments, it is important that the proposed lighting be appropriately designed and located in order to minimise possible visual impacts.

The SEE states that the exterior lighting of the Walsh Bay theatre will be provided in accordance with the recommended maximum values of spill light and glare for residential areas at the boundary of commercial areas. Australian Standard AS 4282 “Control of the Obtrusive Effects of Outdoor Lighting” applies to lighting installations operating from dusk to 11:00 pm and within curfew hours from 11:00 pm to dawn. Accordingly the subject Australian Standard identifies the following limits for illumination in vertical plane and intensity of illumination in commercial areas or at boundary of commercial and residential areas:

- Vertical Illumination: 25 lux (before curfew) and 4 lux (during curfewed hours)
- Luminous Intensity: 2,500 cd (during curfewed hours)

The Shore apartments 6 & 7 and 8 & 9 will be the most likely affected buildings from the proposed external illumination of the theatre. However, as the Hickson Road side of the subject residential buildings have generally non habitable service areas such as access corridors and stairs, only two apartments may be affected by the proposed lighting. It is proposed to control any impact by imposing the above limits on the illumination intensity of the lighting. This is therefore considered acceptable as the Theatre building is located in a mixed use area.

In order to prevent any potential future adverse impacts upon the adjoining residential premises and motorists on Hickson Road (as many of the apartments are currently vacant and street lighting is not fully operational) it is considered that further restrictions on illumination and curfew hours could be applied. In this regard a condition is proposed to be incorporated into the consent to give the Director, Urban Assessments the authority to impose more stringent controls on the lighting (by extending the curfew time and reducing the illumination of the lights) should the illumination of the building have an adverse impact on the amenity of the neighbourhood or distract the attention of drivers along Hickson Road.

7.3 Energy Management

Condition 15(a) of DA-354-10-00 requires the submission of an energy efficient lighting management scheme for the proposed external lighting of Bond Store 3. This has not been provided as the application only applies to the illumination of the theatre building, however, the SEE does state that the proposed external lighting will be automatically controlled to minimise energy usage as follows:

- Photo-electric cell control to turn on at dusk;
- Time clock controls to turn off at the times appropriate to the Theatre activities; and
- Lighting will be switched to a reduced level at 11:00 pm.

Given the restrictions identified by the relevant Australian Standard such as illumination intensity and curfew hours and above mentioned measures it is considered that proposed external illumination provide an appropriate level of energy-efficient management.

8. CONCLUSION

The proposed development is considered to be an appropriate external illumination of the Walsh Bay Theatre which is one of the key components of the Walsh Bay redevelopment area. It will contribute to a safe and appropriate night-time illumination for the Theatre building and is sufficiently subdued to avoid light spill impacts on surrounding residential developments. The proposed illumination is also considered consistent with the architectural concept and features of the theatre building. This report concludes that all relevant environmental issues have been adequately addressed and that impacts of the development can be managed subject to proposed conditions.

The applicant has been given draft conditions for comment and has accepted all requirements.

9. RECOMMENDATION

It is recommended that the Team Leader, Urban Assessments, as delegate for the Minister under instrument of delegation dated 4 August 2002:

- (i) *Grant consent pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act, 1979 and section 9 of the Walsh Bay Development (Special Provisions) Act 1999, to DA 130-3-2003 for the proposal as described in Schedule 1 subject to the Conditions of Consent at Schedule 2 tagged "I";*
- (ii) *Sign and Date the Notice of Determination for DA 130-3-2003 tagged "B"; and*
- (iii) *Under Sections 81(1) and (2) of the EPA Act, 1979, advise the applicant, Sydney City Council and other submitters of the determination.*

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