



Planning Assessment Report

Development Application DA 320-12-2004

1 SUMMARY

This report is an assessment of the proposed development the subject of Development Application number DA 320-12-2004.

The application seeks consent for shop fit-out of Shop 2 within the Boardwalk development as a retail/café, takeaway ice-cream plus use of an outdoor seating area.

The Minister for Infrastructure and Planning is consent authority under clause 7(2) of *Newcastle Local Environmental Plan 2003* (LEP). The proposal is generally consistent with the range of environmental planning instruments applying in this area.

Under the instrument of delegation dated 4 August 2003 and having regard to the Guidelines for Delegates, it is considered appropriate that the application be determined under delegation by a Team Leader, Urban Assessments.

It is recommended that the development application be granted consent subject to conditions (tagged 'A').

2 BACKGROUND

2.1 Site Context

The site is located at Lot 23 DP 1062601, Shop 2, Boardwalk South, 1 Honeysuckle Drive, Newcastle, in the Newcastle City Council local government area.

The development application was lodged with the Department on 24 December 2004 in accordance with the *Environmental Planning and Assessment Act 1979* (the Act).

The development site known as "the Boardwalk" consists of three large blocks with mixed-use functions consisting of office/commercial space, residential, restaurants/cafes and carparking facilities. The Boardwalk consists of three separate buildings known as Building E (east), Building S (south) and Building N (north) which were approved by DA 40-2-2001 on 8 October 2004. The subject lot is located on the ground floor of Building S.

The development site is directly adjacent to the heritage listed Railway Workshops to the south, the Crowne Plaza Hotel and Conference Facilities to the east, and the former Mine Subsidence Board Workshops to the northwest.

3 THE PROPOSED DEVELOPMENT

The proposed development seeks consent for:

- The fitout of Shop 2 within Building S of the development known as "the Boardwalk" for a retail, takeaway ice-cream and coffee bar facility;
- Total seating capacity of no more than 40 persons;
- Use of outdoor lease area for retail/café seating only and other local retail activities as may be approved from time-to-time by the Body Corporate; and

- Provision within the retail area for ticketing for tourist itineraries and short-term hire of cycling equipment.

4 STATUTORY FRAMEWORK

4.1 *Statement of permissibility*

The proposed development is permitted in the 3(c) City Centre Zone as commercial premises pursuant to clause 16 of the Newcastle LEP.

4.2 *Instrument of consent and other relevant planning instruments*

Pursuant to clause 7(2) of the Newcastle LEP, the Minister is the consent authority.

4.3 *Legislative context*

The proposed development represents local development.

4.4 *Other statutory provisions*

Newcastle DCP 40 – City West applies to the site of the proposed development.

5 CONSULTATION / PUBLIC EXHIBITION

5.1 *Public consultation*

In accordance with the provisions of Newcastle DCP 49 – Notification Policy, the application was not required to be notified or exhibited.

5.2 *Referrals*

5.2.1 *Integrated approval bodies*

The application was not integrated.

5.2.2 *Council*

The application was referred to the Newcastle City Council for comment on 24 January 2005. In their response on 21 February 2005, Council raised no objections to the proposal. Issues raised by Council are discussed in Section 6.2 of this report. Council's full submission is tagged "C".

5.2.3 *Honeysuckle Development Corporation*

The application was referred to Honeysuckle Development Corporation (HDC) for comment on 24 January 2005. In their response on 23 February 2005, HDC raised no objections or issues to the proposal.

6 CONSIDERATION

6.1 *The Environmental Planning and Assessment Act*

The application and the likely impacts of the proposed development have been considered in accordance with Section 79C of the Act. Significant issues are discussed below in Section 6.2.

The subject site is considered suitable for the proposed development. On balance, it is considered that the proposed.

6.2 *Issues*

6.2.1 *Health*

Issue: Compliance with public health and hygiene standards

Raised by: Newcastle City Council

Consideration: To ensure compliance with the appropriate public health and hygiene

standards, Council requested that a condition of consent be included to ensure that the space is being provided with adequate toilet facilities and hand-washing basins for each sex in accordance with the provisions of the BCA.

Resolution: An appropriately worded condition of consent has been included to ensure compliance with the above.

6.2.2 Signage

Issue: Placement of signage or advertising material

Raised by: Newcastle City Council

Consideration: To ensure that the Applicant is aware of the necessity to submit further applications in respect of proposed signage, Council requested that a condition of consent be included to ensure that any proposed business identification sign or advertising sign is designed in accordance with the Council's relevant DCP and is the subject of a separate development application to be approved.

Resolution: The condition has been sustained. An appropriately worded condition of consent has been included to ensure compliance with the above.

6.2.3 BCA Compliance

Issue: Compliance with BCA

Raised by: Newcastle City Council

Consideration: Council requested that an appropriate condition be included to ensure that all building work be carried out in accordance with the provisions of the BCA.

Resolution: The condition has been sustained. An appropriately worded condition of consent has been included to ensure compliance with the above.

6.2.4 Compliance with the Act

Issue: Compliance with the Act

Raised by: Newcastle City Council

Consideration: To ensure compliance with the Act, Council requested that all building or site works or other written undertaking or obligation indicated in the DA or supporting documents and plans be carried out or implemented prior to occupation of the offices.

Resolution: The condition has been sustained. An appropriately worded condition of consent has been included to ensure compliance with the above.

6.2.5 Hours of Operation

Issue: Hours of Operation may cause impacts on the amenity of the residents of the development site.

Raised by: Urban Assessments

Consideration: The Applicant has applied for the hours of 8.00 am to 12.00 pm daily however Urban Assessments is of the view that due to the close proximity of residential apartments to the site of the café, the café backs onto many of the residential units within the Boardwalk Development, hours of operation will be temporarily restricted to 8.00 am to 10.00pm Sunday to Thursday and 8.00 am to 12.00 pm Friday and Saturday.

Resolution:

6.2.6 Use of Outdoor Area

Issue: Use of the outdoor area for seating and other activities related to the

proposed use
Raised by: Urban Assessments
Consideration:
Resolution:

7 CONCLUSION

The Minister for Infrastructure and Planning is the consent authority.

The application has been considered with regard to the matters raised in section 79C of the Act.

On balance, it is considered that the proposed development is acceptable and should be approved.

8 CONSULTATION WITH APPLICANT – DRAFT CONDITIONS

The Applicant was asked to comment on the draft conditions of consent on 23 February 2005. The Applicant responded on

9 DELEGATION

Under the instrument of delegation dated 4 August 2003, the Minister has delegated to Team Leaders and officers holding a higher position his functions under the Act for granting development consents except where they relate to designated development or development that is declared to be State Significant development (other than under SEPP 56).

Having regard to the Urban Assessments Guidelines for Delegates, it is considered appropriate that the application be determined under delegation by a Team Leader.

10 RECOMMENDATION

It is recommended that the Team Leader, Urban Assessments as delegate of the Minister for Infrastructure and Planning pursuant to section 80 (1) and 80A of the *Environmental Planning and Assessment Act, 1979* (as amended) and clause 7(2) of *Newcastle Local Environmental Plan 2003*:

- (A) grant consent to the application subject to conditions (Tagged “A”), and
- (B) authorise the Department to carry out post-determination notification.

For Approval Under delegation

Prepared by:

Endorsed by:

Verity Humble-Crofts
Planner, Urban Assessments

Michael Brown
**Acting Team Leader, Urban Assessments
Determined as Delegate of the Minister for
Infrastructure and Planning**