



Planning Assessment Report Development Application

Retail Units 5 and 6, Shore Building West, Jones Bay Wharf, Pyrmont

1 SUMMARY

This report is an assessment of the proposed development the subject of Development Application number DA 331-7-2003

The application seeks consent for fitout and use of retail tenancies 5 and 6, Shore Building West as a licensed Thai restaurant.

The Minister for Infrastructure Planning and Natural Resources is consent authority under clause 14 of SREP 26.

It is recommended that the development application be granted **consent**.

2 BACKGROUND

2.1 Site Context

The site is located at Jones Bay Wharf in the City of Sydney local Government area.

The development application was lodged with the Department on 15 July 2003 in accordance with the *Environmental Planning and Assessment Act, 1979* (the Act).

The 2 subject retail tenancies form part of the new shore shed building recently constructed adjoining the heritage listed Jones Bay Wharf. The site does not have a direct street frontage but has a wharf apron frontage and adjoins a number of other ground level retail tenancies forming part of the new shore shed building.

A site visit was conducted on 17 October 2003.

3 THE PROPOSED DEVELOPMENT

The proposed development seeks consent for the fitout and use of retail units 5 and 6, Shore Building West as a licensed Thai Restaurant with associated outdoor seating on the wharf apron.

4 STATUTORY FRAMEWORK

4.1 Statement of permissibility

The site is zoned Residential Business under the provisions of SREP 26 and the proposed use is permissible with consent. Residential uses are not permissible on Jones Bay Wharf.

4.2 Instrument of consent and other relevant planning instruments

The Ultimo Pyrmont Urban Development Plan 1999 Update applies to the site and the proposal generally complies with the Plan. The application has been considered against

the provisions of draft CSLEP 2002 and it is considered that the proposal is consistent with the draft plan.

4.3 Other statutory provisions

The site is also subject to the provisions of SEPP No.56 and the proposal satisfies the guiding principles of the instrument.

5 CONSULTATION

5.1 Public consultation

The application was notified, in accordance with the Regulations, from 20 August 2003 until 4 September 2003.

10 submissions were received regarding the application. A summary of the issues raised and a response to each is outlined below:

- *Noise impact of proposed use on residences on Pirrama Road.*

The use is permissible under the zoning and will cease at 10pm each night. The retail tenancies are also adequately separated from the apartment buildings. The impact on residential amenity will be minimal given the hours proposed and the separation distances involved.

- *Ventilation issues, cooking fumes etc.*

Given the separation distances from the restaurant to nearby residences, this is unlikely to be a significant problem, however a condition of development consent has been imposed requiring the installation of a mechanical ventilation to comply with the BCA.

- *Light spill and impact on amenity.*

The use will cease at 10pm. This reason for objection is not considered to be reasonable.

- *Issues associated with outdoor seating, such as extent, possible obstruction to the public way, impact on amenity, encroachment of entertainment precinct.*

The extent of the outdoor seating as originally proposed was excessive and covered the railway tracks, revised drawings have reduced the amount of outdoor seating and reconfigured it and is now considered acceptable. Given the hours of operation proposed, the outdoor seating is unlikely to impact on residential amenity. A restaurant of this scale is not regional in character and is not comparable to restaurants in Darling Harbour for example. The seating will not obstruct public access to the wharf and will be conditioned to comply with the Jones Bay Wharf Outdoor Furniture Guidelines.

- *Car parking impacts*

Adequate on-street spaces are available in reasonable proximity to the site and these spaces are time limited and well policed, as well as this there are public parking facilities. Many of the users will be tenants of the wharf who will walk to the restaurant. The existing parking arrangements are considered acceptable.

5.2 Referrals

5.1.1 Integrated Approval Bodies

The application was not integrated.

5.1.2 Council

The application was referred to the City of Sydney on 31 July 2003 in accordance with SREP 26. Council responded on 8 August 2003 and indicated that it was not going to comment on this application.

5.1.3 Other Agencies

The Sydney Harbour Foreshore Authority (SHFA) that they raised no objection to the application subject to the deletion of the planter boxes and that outdoor seating should comply with the Jones Bay Wharf Outdoor Furniture Guidelines, March 2003. SHFA also advised that they do not support the use of outdoor umbrellas and that the application does not address the issue of weather protection. These issues are agreed with and have been addressed by conditions of development consent.

6 CONSIDERATION

6.1 The Environmental Planning & Assessment Act, 1979

6.1.1 Section 79C

The application and the likely impacts of the proposed development have been considered in accordance with s.79C of the Act. The subject site is considered suitable for the proposed development. Submissions have been considered and issues raised in submissions are discussed in Section 5.1. On balance, the proposed development is considered to be acceptable and in the public interest.

7 CONCLUSION

The Minister for Infrastructure Planning and Natural Resources is the consent authority.

The application has been considered with regard to the matters raised in s79C of the Act. The application has been notified in accordance with the Regulations. All submissions received in the period prescribed by the Regulations have been considered.

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 17 October 2003. The applicant responded on 21 October 2003 and also provided a revised drawing in response to a draft condition restricting the extent of outdoor seating. The revised layout is considered acceptable. Issue was raised with the draft condition requiring structural drawings as no structural walls are proposed and this condition has been amended to apply to the shopfront only. The applicant has also requested an extension of hours of operation, with hours to commence at 7am, however the application was notified with hours commencing at 9am and it would not be reasonable to approve hours outside of those applied for originally.

9 DELEGATION

Under the instrument of delegation dated 8 August 2002, the Minister has delegated to Team Leaders and officers holding a higher position his functions under s.80(A) of the Act relating to determining development consents, except where they relate to designated development or development that is declared to be State Significant development (other than under SEPP56).

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

Error! Reference source not found.

Prepared by

Approved:

Alan Bright
Planner, Urban Assessments

Michael Brown
Al Team Leader, Urban Assessments