

ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979
DETERMINATION OF DEVELOPMENT APPLICATION NO. 353 – 10 – 2002
(FILE NO. S02/02563 PT1)
REVISED SIGNAGE AND STREET FURNITURE

I, Mike Brown, Team Leader, Urban Assessments, as delegate of the Minister for Infrastructure and Planning, under instrument of delegation dated 8th August 2002, Schedule B (c)(l)(p)(q) pursuant to Section 80 (1) (a) of the *Environmental Planning & Assessment Act, 1979*, and clause 10 of State Environmental planning Policy No 56 – Sydney Harbour Foreshores and Tributaries, determine the development application referred to in the attached Schedule 1, by granting consent to the application subject to the conditions of consent in the attached Schedule 2.

The reasons for the imposition of conditions are:

- (1) To ensure the proper planning and development of the area and to maintain the visual quality of the public realm.

Mike Brown
Team Leader
Urban Assessments

Sydney, 11th November 2003

SCHEDULE 1 –THE DEVELOPMENT**PART A—TABLE**

Application made by:	Wharves 9 &10, Stage 4 Pty Ltd 7 – 11 Sussex Street, Sydney 2000
Application made to:	Minister for Infrastructure and Planning
Development Application:	353 – 10 – 2002
On land comprising:	Lot 44/DP 1014625, Lot 13/16/20/DP 237811, Lot4/DP711467 King Street Wharf, Darling Harbour
For the carrying out of:	Development described in Condition A1, Part A, Schedule 2
Type of development:	State Significant Development
S.119 Public inquiry held:	No
Approval Body / Bodies:	Department of Infrastructure, Planning and Natural Resources
Determination made on:	11 th November 2003
Determination:	A development consent is granted subject to the conditions in the attached Schedule 2.
Date of commencement of consent:	This development consent commences on the date identified in the accompanying letter.
Date consent is liable to lapse	This consent will lapse 5 years from the date of commencement of consent, unless: ▪ a shorter period of time is specified by the Regulations or a condition in Schedule 2, or ▪ the development has substantially commenced.

PART B—NOTES RELATING TO THE DETERMINATION OF DA NO. 353 – 10 – 2002**Responsibility for other approvals / agreements**

The applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

Appeals

The applicant has the right to appeal to the Land and Environment Court under Section 97 of the *Environmental Planning and Assessment Act, 1979*. The right to appeal is only valid:

- (1) for a development application, within 12 months after the date on which the applicant received this notice, or
- (2) for a modification to the consent, within 3 months after the date on which the applicant received this notice.

Appeals—Third Party

For designated development, a third party has the right to appeal to the Land and Environment Court on the merits of this decision under Section 98 of the *Environmental Planning and Assessment Act, 1979*. The right to appeal is only available within 28 days of the date of commencement of consent.

A third party right to appeal to this development consent is available under Section 123, subject to Section 101, of the *Environmental Planning and Assessment Act, 1979*.

Legal notices

Any advice or notice to the consent authority shall be served on the Deputy Director-General.

PART C—DEFINITIONS

In this consent,

Act means the *Environmental Planning and Assessment Act, 1979* (as amended).

Applicant means Wharves 9 & 10, Stage 4 Pty Ltd or any party acting upon this consent.

Approval Body has the same meaning as within Division 5 of Part 4 of the Act,

BCA means the Building Code of Australia.

Certifying Authority has the same meaning as Part 4A of the Act.

Council means City of Sydney Council.

DA No. 353 – 10 – 2002 means the development application and supporting documentation submitted by the applicant on 25 – 10 - 02.

Department means the Department of Infrastructure, Planning and Natural Resources or its successors.

Director means the Director of the Urban Assessments branch (or its successors) within the Department.

Director-General means the Director-General of the Department.

Deputy Director-General means the Deputy Director-General of the Department.

Minister means the Minister for Infrastructure and Planning.

PCA means a Principal Certifying Authority and has the same meaning as Part 4A of the Act.

Regulations means the Environmental Planning and Assessment Regulations, 2000 (as amended).

Senior Planner means the Senior Planner, Urban Assessments branch (or its successors) within the Department.

Subject site has the same meaning as the land identified in Part A of this schedule.

Team Leader means the Team Leader, Urban Assessments branch (or its successors) within the Department.

SCHEDULE 2**THE CONDITIONS OF CONSENT****DEVELOPMENT APPLICATION NO. 353 – 10 - 2002****PART A—ADMINISTRATIVE CONDITIONS****A1 *Development Description***

Development consent is granted only to carrying out the development described in detail below:

- (1) Revised signage and street furniture including additional seating and umbrellas, beverage carts and removable license barriers.

A2 *Modification of Consent*

Full compliance must be given to the conditions of development application approvals that relate to the subject site and are detailed below except as modified by this consent.

- (1) 321-11-2001 – Consent Authority, Planning New South Wales.
- (2) 342-10-2000 - Consent Authority, Planning New South Wales.
- (3) 22-09-1998 – Consent Authority, Planning New South Wales.

PART B — DESIGN DETAILS AND CHANGES**B1 *Design Modifications***

In order to maintain visual amenity and ensure standardisation various components of the proposal shall be amended as follows:

- (1) The flagpole banners shall be restricted to every fourth pontoon pile so as to prevent visual cluttering.
- (2) Banners shall be replaced at regular intervals to ensure visual amenity.
- (3) The proposal to erect/drape banners from buildings shall be omitted so as to prevent visual clutter.
- (4) The 'KSW' logo shall not appear on any banners erected outside the aquarium.
NOTE: The applicant shall contact relevant bodies, ie, SHFA, CoS with regard to logo content for the remaining banners.
- (5) Mobile food carts shall be identical and carry no advertisement/endorsements apart from that of tenant identification and shall be located within the tenancy outdoor areas.
- (6) There shall be a separate application to Council for the footway license area.
- (7) All outdoor furniture, including tables, chairs, planters, umbrellas, etc shall comply with the requirements of City of Sydney Council's Outdoor Café Policy 1996.

- (8) Footpath height clearance to under-awning signs shall be a minimum of 2.7 metres, in accordance with the City of Sydney Local Environment Plan.
- (9) Street name signs are to comply with the provisions and specifications of the councils' Street Sign Manual.
- (10) Way-finding Threshold/directional pillars shall conform to Sydney Harbour Foreshore Authority standards and the applicant shall consult with the aforementioned authority prior to the installation of the pillars.
- (11) The proposal to reposition menu board pillars will be omitted and the menu board pillars will remain in their present position.
- (12) Lime Street signage shall conform to previous KSW policy and be restricted to 1 horizontal projecting sign per tenancy or 1 wall mounted menu sign per tenancy.
- (13) Tenant branding to awnings is not approved under this application and is not permitted unless approved under a separate DA. Any such signage shall be designed to avoid visual clutter.
- (14) To ensure public access is maintained to all areas, at no time shall any barricades, planter boxes or other barriers be placed within or across those areas defined as 'public easements'.
- (15) Temporary lease area barriers shall comply with the design and location requirements specified in the City of Sydney Outdoor Cafe Policy. Such temporary barriers shall only be erected during peak hour periods and shall be stored in an area separate from the public domain outside these times, the details of which shall be to the satisfaction of the Manager, Urban Assessments, Department of Infrastructure, Planning and Natural Resources. The peak hour periods shall be agreed by the Manager, Urban Assessments, Department of Infrastructure, Planning and Natural Resources and shall be reviewed after a period of one year based on submission of the compliance report as required by Condition D1 to this consent.
- (16) Any proposal to install public telephones or ATM machines shall be subject to a separate development approval application.

Design details required by this condition shall be submitted to and approved by the Senior Planner prior to the issue of a Construction Certificate.

B2 Outdoor Lighting

All outdoor lighting shall comply with, where relevant, AS/NZ1158.3: 1999 *Pedestrian Area (Category P) Lighting* and AS4282: 1997 *Control of the Obtrusive Effects of Outdoor Lighting*. Details demonstrating compliance with these requirements are to be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

PART C—DURING CONSTRUCTION

C1 Approved Plans to be On-site

A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the site at all times and shall be readily available for perusal by any officer of the Department, Council or the PCA.

C2 Site Notice

A site notice(s) shall be prominently displayed at the boundaries of the site for the purposes of informing the public of project details. The notice(s) is to satisfy all but not be limited to, the following requirements:

- (1) Minimum dimensions of the notice are to measure 841mm x 594mm (A1) with any text on the notice to be a minimum of 30 point type size;
- (2) The notice is to be durable and weatherproof and is to be displayed throughout the works period;
- (3) The approved hours of work, the name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice; and
- (4) The notice(s) is to be mounted at eye level on the perimeter hoardings/fencing and is to state that unauthorised entry to the site is not permitted.

C3 Hours of Work

The hours of construction, including the delivery of materials to and from the site, shall be restricted as follows:

- (1) between 7:00 am and 6:00 pm, Mondays to Fridays inclusive;
- (2) between 7:00 am and 1:00 pm, Saturdays, if inaudible on residential premises, or between 8:00 am and 1:00 pm, Saturdays, if audible on residential premises;
- (3) no work on Sundays and public holidays.

Works may be undertaken outside these hours where:

- (1) the delivery of materials is required outside these hours by the Police or other authorities;
- (2) it is required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm;
- (3) relevant mitigation and management measures are included in the approved Noise Management Plan;
- (4) approval is obtained by the Senior Planner prior to the carrying out of these works; and
- (5) residents likely to be affected by the works are notified of the timing and duration of these works at least 48 hours prior to the commencement of the works.

C4 Contact Telephone Number

The applicant shall ensure that the 24 hour contact telephone number is continually attended by a person with authority over the works for the duration of the development.

C5 External Lighting

External Lighting shall comply with Australian Standards AS/NZ 1158 3.1:1999 Pedestrian Area (Category P) Lighting and AS4282: 1997 *Control of the Obtrusive Effects of Outdoor Lighting*. Upon installation of lighting, but before it is finally commissioned, the applicant shall submit to the consent authority evidence from an independent qualified practitioner demonstrating compliance in accordance with this condition.

C6 Public Access

The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances.

PART D-COMPLIANCE**D1 Compliance Report**

The Applicant, or any party acting upon this consent, shall submit to the Manager, Urban Assessments, Department of Infrastructure, Planning and Natural Resources a report addressing compliance with all relevant conditions of this consent one year after commencement of activity under this consent. Further such compliance reports may be required by the Department of Infrastructure, Planning and Natural Resources, based on the outcome of the first year of operation.