

Resolution of Local Planning Panel

12 October 2022

Item 3

Development Application: 26-28 and 34 Pirrama Road, Pyrmont - D/2021/1445

The Panel resolved that consent be refused for Development Application No. D/2021/1445 for the reasons outlined below.

Reasons for Decision

The application is refused for the following reasons:

Unacceptable noise and amenity impacts

- (A) The proposed development is likely to result in unreasonable noise and amenity impacts, as it does not:
 - (i) address the likely impacts of the development on the occupants of surrounding residential land uses;
 - (ii) consider the potential cumulative noise impacts from the proposed and existing late night premises in the area;
 - (iii) consider the potential impacts from patrons arriving and leaving the site en masse as is typical for a function centre use;
 - (iv) provide sufficient information to enable an accurate or detailed assessment of the potential noise impacts to be undertaken;
 - (v) satisfactorily demonstrate that the recommended noise emission restrictions are appropriate for the proposed use, will adequately protect the surrounding resident's amenity, or will be capable of being complied with; and
 - (vi) provide adequate measures to eliminate or control unreasonable noise impacts on nearby residential land uses.

The proposed development is therefore contrary to and fails to satisfy:

- (vii) Section 4.15(1)(b) of the Environmental Planning and Assessment Act, 1979.
- (viii) Clause 1.2 of the Sydney Local Environmental Plan 2012, including the aim at part 2(h) of the clause.
- (ix) Objective (b) at Section 3.15 'Late Night Trading Management' of the Sydney Development Control Plan 2012.
- (x) Objective (h) at Section 3.15 'Late Night Trading Management' of the Sydney Development Control Plan 2012.
- (xi) Objective (k) at Section 3.15 'Late Night Trading Management' of the Sydney Development Control Plan 2012.
- (xii) Section 4.2.3.11 'Acoustic privacy' of the Sydney Development Control Plan 2012.

Unacceptable Plan of Management

(B) The Plan of Management is unsatisfactory given that:

- (i) the proposed management practices would be difficult to carry out and enforce and not likely to be adequate;
- (ii) it has not been demonstrated that noise and amenity impacts on residential properties could be effectively managed;
- (iii) it has not been demonstrated that use of the outdoor areas could operate in accordance with the proposed recommended patron and operating hour restrictions;
- (iv) the proposed management measures rely on constant monitoring of the outdoor terrace areas; and
- (v) the proposed management practices seek to encourage patrons to behave in a particular manner but cannot guarantee or enforce the terms of the management plan.

The proposed development is therefore contrary to and fails to satisfy:

- (vi) Objective (c) at Section 3.15 'Late Night Trading Management' of the Sydney Development Control Plan 2012.
- (vii) Objective (n) at Section 3.15 'Late Night Trading Management' of the Sydney Development Control Plan 2012.
- (viii) Section 3.2 'Plan of management requirements' at Schedule 3 of the Sydney Development Control Plan 2012.

Does not promote orderly development

(C) The proposal does not promote the orderly use of the land, given that:

- (i) the dual use of the site, for a restaurant and function centre, would be difficult to manage given that each use would have different patron capacities, different hours of operation and different plans of management.

The proposed development is therefore contrary to and fails to satisfy:

- (ii) Object (c) at Clause 1.3 of the Environmental Planning and Assessment Act 1979.

Site unsuitable for the development

(D) The proposed development has not satisfactorily demonstrated that:

- (i) the site is suitable for the development given its proximity to sensitive residential land uses.

The proposed development is therefore contrary to and fails to satisfy:

- (ii) Section 4.15(1)(c) of the Environmental Planning and Assessment Act, 1979.
- (iii) The B3 Commercial Core zone objectives of the Sydney Local Environmental Plan 2012.
- (iv) Objective (a) at Section 3.15 'Late Night Trading Management' of the Sydney Development Control Plan 2012.

Impacts on the public domain

(E) The proposal has the potential to impact negatively on the amenity of the street and public domain, given that:

- (i) it has not been demonstrated that there will be no queuing on the footpath.

The proposed development is therefore contrary to and fails to satisfy:

- (ii) Objective (a) at Section 3.2.2 'Addressing the street and public domain' of the Sydney Development Control Plan 2012.

Not in the public interest

(F) The proposal is unsatisfactory having regard to the submissions made in objection; and is contrary to the public interest.

The proposed development is therefore contrary to and fails to satisfy:

- (i) Section 4.15(1)(d) of the Environmental Planning and Assessment Act, 1979.
- (ii) Section 4.15(1)(e) of the Environmental Planning and Assessment Act, 1979.

Carried unanimously.

D/2021/1445