

Statement of Environmental Effects

Section 8.2 (1A) Review of Determination

Dee Why Town Centre “Town Square”

Two Kiosks and associated outdoor seating

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Annexures

Annexure 1: Amended Statement of Environmental Effects

Annexure 2: Original Architectural Plans

Annexure 3: Original Perspective Drawing

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1 Introduction

1.1 Overview

This report has been prepared by Karimbla Construction Services (NSW) Pty Ltd for Development Application DA2019/0404, which was refused under delegated authority by Council on 20 June 2019. It accompanies a request to Northern Beaches Council for a review of the determination of development application pursuant to Section 8.2 of the Environmental Planning and Assessment Act 1979.

The request for the review is based on the following:

- Refinements to the design of the proposed development and the preparation of supplementary information responding to the reasons for refusal of the DA.

The modified proposal remains substantially the same development as that previously assessed and determined by Council under development application 2019/0404 but the revisions to the proposal warrant Council's review and reconsideration of the application.

The report should be read in conjunction with the amended Statement of Environmental Effects (SEE) and technical reports which accompanied the DA. The assessment contained in these documents remains relevant to the proposed development noting that the modifications relate primarily to design excellence and do not alter the fundamental characteristics of the against which the assessment was based. The revised application is nonetheless supported by revised architectural drawings, which provide further assessment and analysis of the proposal in response to the design changes. The supporting documents have been appended to this report and will be referenced throughout.

1.2 Planning Context

1.2.1 Development Application 2019/0404

Development Application 2019/0404 sought approval for the construction of two (2) custom built kiosks to trade as small-scale retail premises within the western side of the approved Town Square in DA2016/0705.

In summary, the proposed kiosks will be approximately 3 metres in height and 17 sqm in size (6m x 2.7m). The proposed structure will include a door (2.4m x 1m), window opening (1.45m x 4.1m) and a weather protection awning that will form part of the structure.

Each kiosk will be equipped new counters, prep bench, double sink, refrigerator, storage areas, cash register and kitchen equipment including a coffee machine, hot food cabinet, cake display, microwave and sandwich press. Moveable outdoor furniture will include seating & tables and umbrellas.

1.2.2 Submissions

In response to the public notification of development application 2019/0404 (9 May 2019 to 23 May 2019) Council received 1 submission objecting to the proposal. The objections related to the following matters:

- Amenity
- Economic impact of existing retail outlets

1.2.3 Reasons for Refusal

Council refused the DA under delegated authority on 20 June 2019. The reasons for refusal, as specified in the notice of determination, primarily relate to Design Excellence and the impact of the proposed kiosks on the Town Square and Public Domain.

To address the concerns raised in the refusal report, revisions to the proposal would be required as summarised below:

- Integration of design elements that link the kiosks to the development proper to integrate with the public realm;
- A finer grain response to the siting and design that is in keeping with the design principles of the public civic amphitheatre and the civic square;
- A rigorous site analysis of the broader public realm and the site as a whole addressing the meaning and purpose of the civic public amphitheatre space;
- A greater level of analysis of the active/passive zones that promote community activity and places for rest and leisure.

1.3 Purpose of this report

The purpose of this report is as follows:

- It describes the revised proposal.
- Together with the technical reports which accompany the application it provides an assessment of the revised proposal.
- It describes the approach taken to respond to Council's concerns with the DA (and which culminated in the refusal of the application) and sets out why a review of Council's decision to refuse the DA is warranted in this case.

2 Response to the Reasons for Refusal

In responding to the issues identified by Council, the applicant has adopted the following approach:

- Design modifications.
- Further information, analysis and / or justification.

A schedule of the key changes to the design of the proposal when compared to the original DA is provided below.

Issue	Details	Additional Information
<ul style="list-style-type: none"> • Built form 	<p>The proposed kiosks have been intentionally located towards the northern and western side of the approved Town Square with aims of encouraging social interaction and greater usability of this space.</p> <p>As shown on the amended perspective drawings, the design of the proposal has been revised to ensure that proposed kiosks exhibit design excellence and responds appropriately to the surrounding nature of adjoining development.</p> <p>To address Councils concerns of the kiosks presenting as "hard line box structures", the visual aspect of the proposal has been improved through the use of colours, materials and finishes reminiscent of adjoining buildings, which overall improve the building façade; effectively minimise the perception of building bulk; and enable the kiosks to be an appropriate addition to the site.</p> <p>In summary, the proposed development has been re-designed to a high standard. As stated above, the development will involve the use of sympathetic materials and a design that is entirely in keeping with the existing buildings surrounding the site. The external materials and colours have been selected with regard to the colour palette used on surrounding properties whilst allowing the new building to be separately identified within the streetscape.</p> <p>The proposed development will have a positive visual impact on the surrounding area. From a distance, the visual impact of the proposal is extensively absorbed by the context in which it sits.</p> <p>It should also be noted, the Town Square has an area of approximately 2,259 sqm. The proposed kiosks will only occupy 34sqm which is equivalent to 1.5% of the total area. In retrospect of this figure, the proposed bulk and scale of the kiosks is considered to be negligible</p>	<p>Annexure 1: Statement of Environmental Effects</p> <p>Annexure 4: Amended Architectural Plans</p> <p>Annexure 5: Amended Perspective Drawing</p>

Issue	Details	Additional Information
	when compared the positive impacts associated with the proposal.	
<ul style="list-style-type: none"> • Loss of soft landscape area 	<p>The original architectural plans show that the proposed northern kiosk encroaches into the landscaped area along the Howard Avenue frontage.</p> <p>To ensure existing soft landscape areas are maintained along the Howard Avenue frontage, the proposed northern kiosk has been re-located on existing hard surface area within the Town Square. Re-locating the kiosks ensures that no existing soft landscape is lost.</p>	<p>Annexure 4: Amended Architectural Plans</p>
<ul style="list-style-type: none"> • Flexibility of the kiosks 	<p>The original proposal sought approval for the construction of two (2) custom built kiosks to trade as small-scale retail premises within the western side of the approved Town Square.</p> <p>Concerns were raised in the Assessment Report in relation to the permanence of the built structures and limited flexibility of the town square in terms of a flexible multi use space.</p> <p>The intent of the proposal is to activate and encourage the ongoing lively use of the Town Square by providing two small-scale retail kiosks and moveable outdoor seating areas.</p> <p>The proposed kiosks will be non-permanent structures with the capability of being moved. The proposed outdoor seating areas will contain flexible types of outdoor furniture with the ability to be freely moved, folded up and stored in the kiosks. The flexible design of the proposed kiosks does not comprise the ability of the town square to be used as a multi-use space.</p>	<p>Annexure 1: Statement of Environmental Effects</p>
<ul style="list-style-type: none"> • Voluntary Planning Agreement 	<p>The application acknowledges that the site is subject to a Voluntary Planning Agreement that allows Council 30 days of free access to the town square each year for community events.</p> <p>As stated above, the proposed kiosks will be non-permanent structures with the capability of being moved if necessary, to address the requirements of specific events.</p>	
<ul style="list-style-type: none"> • Adverse Impact on the Public Interest 	<p>Concerns were raised in the Assessment Report in relation to the provision of additional retail outlets in the town square having negative impacts on the financial stability of existing retail outlets surrounding the site and an adverse impact on the public interest.</p> <p>It is worth noting that under the Exempt and Complying SEPP, the carrying out of the retail sale of food, drinks and related products on land from a mobile outlet such as a food truck, van,</p>	

Issue	Details	Additional Information
	<p>cart or other similar vehicle are exempt development.</p> <p>The small-scale nature of the use is not considered to detrimentally impact the financial stability of existing retail outlets at the site. On the contrary, the proposal will directly contribute to enhancing the appearance, usability and amenity of the site as it will provide a small scaled use that aims to extend beyond the Town Square.</p> <p>The proposed kiosks will provide more incentive for residents and visitors to use the Town Square more frequently, increase employment through the creation of service and supplier jobs and will ultimately provide a land use that is consistent with the B4 Mixed Use objectives</p> <p>One of the key zone objectives is provide a mixture of compatible land uses. The proposal will contribute additional commercial floor space to the Town Square providing greater for its users and thereby contributing to the vitality and viability of the centre.</p>	

3 Description of Development Proposal

3.1 Overview

This application is seeking approval for two (2) non-permanent kiosks to trade as small-scale retail premises within the northern and western side of the approved Town Square and the provision for moveable outdoor seating areas.

3.2 Use

Consent is sought for use of the kiosks to trade as small-scale retail premises. No cooking will be undertaken on site (beyond the use of a grill and a toaster) but there will be food preparation, storage and packaging.

The proposed kiosks will be leased to a private operator; ideally one that specialises in take away coffee and convenience pre-prepared goods.

3.3 Operational Details

The proposed kiosks will operate as a small-scale retail premises, on a daily basis (7 days a week), within the hours of 6am to 11pm. These proposed hours are consistent with the maximum hours of operation for the Town Square in the Approved Landscape Concept Plan prepared by Arcadia Landscape Architecture.

Staffing details will be provided to Council, once an operator has been signed.

3.4 Proposed Kiosks

The proposed kiosks will be approximately 3 metres in height and 17 sqm in size (6m x 2.7m). The proposed structure will include a door (2.4m x 1m), window opening (1.45m x 4.1m) and a weather protection awning that will form part of the structure.

Each kiosk will be equipped with new counters, prep bench, double sink, refrigerator, storage areas, cash register and kitchen equipment including a coffee machine, hot food cabinet, cake display, microwave and sandwich press. Moveable outdoor furniture will include seating & tables and umbrellas.

The kiosk has the benefit of being a standalone structure, therefore cosmetic treatment that is consistent with external finishes of surrounding developments has been proposed.

The proposed kiosks will be connected to services including water supply and electricity and will incorporate adequate area for storage of general waste and recycling bins for day to day waste.

To address Councils concerns of the kiosks presenting as "hard line box structures", further amendments have been made to the façade treatment of the building. This has included:

- Changes to colours, materials and finishes

The design of the proposal has been revised to ensure that proposed kiosks exhibit design excellence and respond appropriately to the surrounding nature of adjoining development. The revised design scheme will include the use of sympathetic materials that is entirely in keeping with the existing buildings surrounding the site. The external materials and colours have been selected with regard to the colour palette used on surrounding properties whilst allowing the new building to be separately identified within the streetscape.

3.5 Waste Management

An adequate, regular cleaning program will be enforced to ensure the tenant and the designated seating zones are kept clean and free of all food container and spillages at all times.

All waste products will be safely disposed of by a waste contractor who will regularly dispose of the commercial. All waste will be stored in the designated waste storage area.

The storage area must be enclosed and have a smooth impervious floor for sufficient cleaning/hosing down of surfaces. Any excess building waste will either be recycled, disposed of thoughtfully and taken offsite.

A Waste Management Plan has been submitted as part of the application. Refer to **Annexure 5**.

3.6 Signage

Signage does not form part of this Development Application.

4 Assessment of Key Issues

4.1 Overview

This section of the report deals with key issues associated with the proposed development. It specifically considers those matters identified in the post determination meetings with Council, guidance from planning controls and relevant considerations under Section 4.15 of the EP&A Act.

Reference should also be made to the Statement of Environmental Effects and other supporting information lodged with the original DA, the findings of which remain relevant to the assessment of the proposal.

4.2 Built Form and Materials

The proposed kiosks have been re-designed with materials and finishes that effectively soften the built form, integrate the building into the surrounded landscape areas and are consistent with surrounding developments and wider Dee Why Town Centre Precinct.

The proposed kiosks have been located on the northern and western side of the approved Town Square where they can be accommodated, with minimal amenity and visual impacts, in order to provide for meaningful open space areas and pedestrian connections for residents and visitors.

4.3 Design Excellence

Clause 7.5 of *Warringah Local Environmental Plan 2011* relates specifically to Design Excellence within Dee Why Town Centre.

In determining whether development exhibits design excellence, the consent authority must have regard to the following matters. A response has been provided for each of the matters below.

(a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,

The design of the proposal has been revised to ensure that proposed kiosks exhibit design excellence. To address Council's concerns of the kiosks presenting as a "hard line box structures", the proposed kiosks have been re-designed with colours, materials and finishes reminiscent of adjoining buildings.

Overall, the revised architectural design changes, significantly improve the building façade, effectively minimise the perception of building bulk by softening the appearance of the built form, thus enabling the kiosks to be an appropriate addition to the site.

(b) whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain,

The proposed kiosks have been intentionally located towards the northern and western side of the approved Town Square in an underutilised, accommodating space with aims of encouraging social interaction and greater usability of this space.

The design of the proposal has been revisited to ensure that proposed kiosks respond appropriately to the residential nature of adjoining development.

(c) whether the building meets sustainable design principles in terms of sunlight, natural ventilation, wind, reflectivity, visual and acoustic privacy, safety and security and resources, energy and water efficiency,

Each kiosk has been designed to incorporate an awning attached to the structure, in addition to the provision of suitable shading to the outdoor dining and seating areas. The weather protection and sun shading measures are considered appropriate given the minor nature of the proposal.

(d) whether satisfactory arrangements have been made to ensure that the proposed design is carried through to the completion of the development concerned,

The approved Town Square was approved with water and electricity connections. The proposed kiosks will be connected to services including water supply and electricity and will incorporate adequate area for storage of general waste and recycling bins for day to day waste.

(e) whether the configuration and design of communal access and communal recreational areas within the residential elements of development incorporate exemplary and innovative treatments and will promote a socially effective urban village atmosphere.

The proposed development will assist in invigorating and revitalising the Town Square and maximise opportunities for community events, gatherings and interactions through the injection of two small – scaled kiosks.

The proposal will directly contribute to enhancing the appearance, usability and amenity of the site as it will provide a small scaled use that aims to extend beyond the public domain; encourage residents and visitors to use the existing pedestrian link and in doing so promotes activity and engagement in the square and creates a transitional space for pedestrian movements, as well as a place that people can meet and gather.

The proposed development will not interfere with the existing pedestrian link between the site and Howard Avenue, through to Oaks avenue

5 Conclusion

This application seeks a review of Council's decision for Development Application DA2019/0404 which was refused under delegated authority by Council on 20 June 2019.

The request for the review is based on the following:

- Refinements to the design of the proposed development and the preparation of supplementary information responding to the reasons for refusal of the DA.

In summary, the proposed development exhibits design excellence and has been re-designed to a high standard to address Council's original concerns of the kiosks presenting as a "hard line box structures".

As stated throughout the report, the revised design will consist of colours, materials and finishes reminiscent of adjoining buildings. The revised design will overall improve the building façade; effectively minimise the perception of building bulk; and enable the kiosks to be an appropriate addition to the site.

This application has demonstrated that the Town Square is an ideal location for development and the proposed kiosks are entirely compatible with the existing site context noting the following:

- The site is zoned B4 Mixed Use and "kiosks" are permissible with development consent in the zone. One of the key zone objectives is provide a mixture of compatible land uses. The proposal will contribute additional commercial floor space to the Town Square providing greater choice its users, thereby contributing to the vitality and viability of the centre and will increase employment opportunities through the creation of service and supplier jobs,
- The small-scale nature of the use is not considered to detrimentally impact the financial stability of existing retail outlets at the site. On the contrary, the proposed kiosks are not intended to be licensed and are targeting a more 'family friendly' demographic.
- The kiosk will increase the amount of human traffic flowing into the Town Square and encourage residents/visitors to visit the space and surrounding shops, ultimately creating a popular meeting place.
- The kiosk will not adversely impact on the Town Square or the amenity of the neighbourhood as the context of the use is within the approved mixed-use development and is distanced from residential dwellings and other sensitive noise receivers.

This report demonstrates that proposed kiosks exhibit design excellence and have been re-designed to a high-quality built form standard. The proposed development satisfies the relevant planning controls and policies. Accordingly, Council is requested to reconsider its earlier determination of DA2019/0404 and grant consent to the proposed development.

Annexure 1: Amended Statement of Environmental Effects

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