

MEMORANDUM



220147 - Belrose Bowling Club - Acoustic Survey - April 2022 - R3.docx

TO: Carmelo Guardala **DATE:** 12 May 2022
COMPANY: Belrose Bowling Club c/o Ozz Projects Pty Ltd
EMAIL: Email
FROM: Matthew Furlong
SUBJECT: Belrose Bowling Club – Acoustic Survey – April 2022

CONFIDENTIALITY

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Introduction

Pulse White Noise Acoustics Pty Ltd (PWNA) has been engaged by Belrose Bowling Club (BBC) to undertake an acoustic assessment of the current noise impacts associated with the operation of the outdoor family area, playground structure and outbuilding located on/adjacent to the existing north-western bowling green at the Belrose Bowling Club, 146 Forest Way, Belrose.

Specifically, our engagement is in relation to the information outlined in the Northern Beaches Council letters sent to Belrose Bowling Club dated 20th December 2021 and 18th March 2022. These are in relation to noise associated with the outdoor family area including the playground areas within the Bowling Green 1. All council correspondence is attached in Appendix B of this letter.

In addressing the information outlined in the Northern Beaches Council letters, PWNA have undertaken an acoustic survey to determine noise levels emitted from the associated activities and whether compliance with relevant NSW Liquor and Gaming acoustic requirements and or NSW EPA Noise Policy for Industry (NPI) 2017 is achieved. These acoustic surveys were undertaken on Friday 15th April 2022 and Saturday 16th April 2022, during periods of sunny good weather within a period of rain Sydney is currently experiencing.

Site Description and Development Areas

Belrose Bowling Club is located at 146 Forest Way Belrose NSW. The local area is dominated by residential dwellings and other commercial operations as defined below:

- The club is bounded by Forest Way along the eastern boundary which carries a high volume of vehicles carrying approximately 35,000 vehicles per day (RMS traffic counter) including heavy vehicles. Due to the frequency of vehicles along Forest Way the existing background noise levels are dominated by road movements along Forest Way. Located further east across Forest Way is Belrose Country Club retirement village, a service station, and residential dwellings.

- Along the northern boundary of the site is a combination of residential dwellings (Hews Court) and the Belrose Hotel (Hews Parade). The Belrose Hotel also has back of house and loading facilities along the common boundary with the club and Hews Court residential receivers. Attended noise measurements detailed below were undertaken along this boundary as this is the nearest residential receivers.
- Situated along the western boundary are residential dwellings located along Andove Street. These residences are a lot further from the areas of the club in comparison to Hew Court residences.
- Located along the southern boundary of the site are also more residential dwellings along Dindima Place. Like the Andove Street residences, these residences are much further away than the Hews Court residences.

The specific areas of the club which are in question are the smoking terrace located along the northern façade of the club building adjacent to bowling green one shown below. In addition to the smoking terrace, Bowling Green One has being partly separated and provides the club with an area for a children’s playground and outdoor tables (defined as a “outdoor family area”). See below.

Figure 1 Site Map and Measurement Location

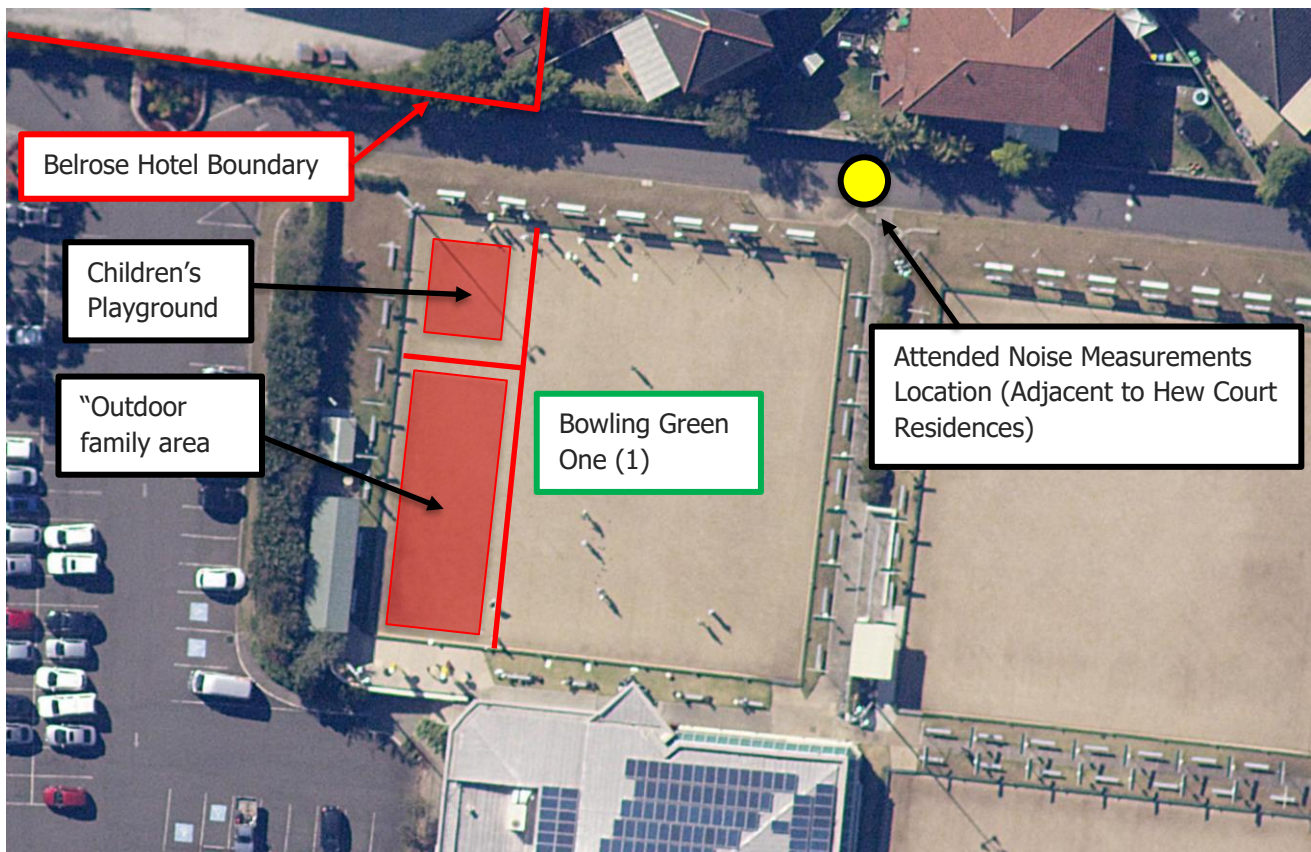


Table 1 Site Photos





Acoustic Criteria

Relevant acoustic criteria applicable to the areas in question are NSW Liquor and Gaming acoustic requirements and or NSW EPA Noise Policy for Industry (NPI) 2017 as mentioned above. From our experience, the outdoor smoking area and outdoor family area would fall under the requirements of NSW Liquor and Gaming. The playground areas for children's play do not fall under NSW Liquor and Gaming requirements. Noise from these areas would generally be assessed in accordance with the requirements of the NSW EPA Noise Policy for Industry (NPI) 2017. Each are outlined below.

NSW EPA Noise Policy for Industry (NPI) 2017

In NSW, the control of noise emissions is the responsibility of Local Government (Council) and the NSW Environment Protection Authority (NSW EPA).

The NSW EPA has recently released a document titled *Noise Policy for Industry* (NSW NPI 2017) which provides a framework and process for determining external noise criteria for the assessment of noise emission from industrial developments. The NSW NPI criteria for industrial noise sources have two components:

- Controlling the intrusive noise impacts for residents and other sensitive receivers in the short term; and
- Maintaining noise level amenity of particular land uses for residents and sensitive receivers in other land uses.

Intrusive Noise Impacts (Residential Receivers)

The NSW NPI states that the noise from any single source should not intrude greatly above the prevailing background noise level. Industrial noises are generally considered acceptable if the equivalent continuous (energy-average) A-weighted level of noise from the source (LAeq), measured over a 15 minute period, does not exceed the background noise level measured in the absence of the source by more than 5 dB(A). This is often termed the Intrusiveness Criterion.

The 'Rating Background Level' (RBL) is the background noise level to be used for assessment purposes and is determined by the methods given in the NSW NPI. Using the rating background noise level approach results in the intrusiveness criterion being met for 90% of the time. Adjustments are to be applied to the level of noise produced by the source that is received at the assessment point where the noise source contains annoying characteristics such as tonality or impulsiveness.

Protecting Noise Amenity (All Receivers)

To limit continuing increases in noise levels, the maximum ambient noise level within an area from industrial noise sources should not normally exceed the acceptable noise levels specified in Table 2.2 of the NSW NPI. That is, the ambient LAeq noise level should not exceed the level appropriate for the particular locality and land use. This is often termed the 'Background Creep' or Amenity Criterion.

The amenity assessment is based on noise criteria specified for a particular land use and corresponding sensitivity to noise. The cumulative effect of noise from industrial sources needs to be considered in assessing the impact. These criteria relate only to other continuous industrial-type noise and do not include road, rail or community noise. If the existing (measured) industrial-type noise level approaches the criterion value, then the NSW NPI sets maximum noise emission levels from new sources with the objective of ensuring that the cumulative levels do not significantly exceed the criterion.

The NSW NPI characterises the "Suburban" noise environment as an area with an acoustical environment which shows the following:

- An area that has local traffic with characteristically intermittent traffic flows or with some limited commerce or industry
- This area often has the following characteristic:
 - Evening ambient noise levels defined by the natural environment and human activity.

The residential area surrounding the development falls under the "Suburban" area classification (residential areas are located within R2 zones which are classified as "Suburban" in Table 2.3 of the NSW NPI). For residential and non-residential receivers in an urban area, the recommended amenity criteria are shown in below.

Table 2 NSW NPI – Recommended LAeq Noise Levels from Industrial Noise Sources

Type of Receiver	Indicative Noise Amenity Area	Time of Day ¹	Recommended Amenity Noise Level (LAeq, period) ²
Residence	Suburban	Day	55
		Evening	45
		Night	40
Commercial	All	When in use	65

Note 1: For Monday to Saturday, Daytime 7:00 am – 6:00 pm; Evening 6:00 pm – 10:00 pm; Night-time 10:00 pm – 7:00 am. On Sundays and Public Holidays, Daytime 8:00 am – 6:00 pm; Evening 6:00 pm – 10:00 pm; Night-time 10:00 pm – 8:00 am

Note 2: The LAeq is the energy average sound level. It is defined as the steady sound level that contains the same amount of acoustical energy as a given time-varying sound.

When the existing noise level from industrial noise sources is close to the recommended "Amenity Noise Level" (ANL) given above, noise from the new source must be controlled to preserve the amenity of the area in line with the requirements of the NSW NPI.

Where existing road traffic noise is high enough to render stationary industrial noise sources effectively inaudible, the ANL can be modified so that the amenity criteria is not unduly stringent in an environment where road traffic noise is the dominant source of environmental noise. If all the conditions below are satisfied, the ANL becomes LAeq,traffic minus 15 dBA. The conditions are:

- The road traffic noise is the dominant noise source.
- The existing noise is 10dB(A) or more above the acceptable ANL for the area.
- It is highly unlikely the road traffic noise levels would reduce in the near future.

NSW Liquor and Gaming Acoustic Requirements

Section 79 of the Liquor Act 2007 provides mechanisms for complaints to be made when the amenity of local areas is disturbed by the use of licensed premises and registered clubs (including disturbances caused by patrons). These complaints are addressed by the Director of Liquor and Gaming, and in this process they may impose temporary or permanent noise conditions on the licensed venue. Typical noise conditions that are imposed upon licensed premises are as follows:

The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5 Hz – 8k Hz inclusive) by more than 5 dB between 07:00 am and 12:00 midnight at the boundary of any affected residence.*

The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5 Hz – 8k Hz inclusive) between 12:00 midnight and 07:00 am at the boundary of any affected residence.*

Notwithstanding compliance with the above, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 12:00 midnight and 07:00 am.

** For the purposes of this condition, the LA10 can be taken as the average maximum deflection of the noise emission from the licensed premises.*

This is a minimum standard. In some instances, the Director may specify a time earlier than midnight in respect of the above condition.

Interior noise levels which still exceed safe hearing levels are in no way supported or condoned by the Director.

Acoustic Survey Results

As mentioned above, two acoustic surveys were undertaken onsite. The first acoustic survey was undertaken in the evening of Friday 15th April 2022 between 6:30pm and 8:00pm. A second acoustic survey was undertaken on the afternoon of Saturday 16th April 2022 between 2:00pm and 4:30pm.

The attended noise measurements were conducted using a Brüel & Kjær Type 2250 sound level meter (serial number 2709757). Calibration of the sound level meter was checked prior to and following the measurements using a Brüel & Kjær Type 4231 sound calibrator (serial number 3009148). The calibrator emitted a calibration tone of 94 dB at 1 KHz. The drift in calibration did not exceed ± 0.5 dB. All equipment carries appropriate and current NATA (or manufacturer) calibration certificates.

Sydney (and greater NSW) have experienced significant rain events between February and mid-April 2022. However, over the easter weekend of April 2022, Sydney experienced nice sunny weather and allowed PWNA to undertake the acoustic survey. Weather conditions during the acoustic survey were within the parameters as outlined by the NSW EPA NPI 2017.

Measured noise levels from the acoustic survey are detailed below.

Note: As the club/sounding residences are in an area which is affected by continuous (and uncontrollable) traffic noise, resulting noise levels detailed below (see column three (3) in table), do not provide the resulting contribution of any one source, but rather multiple sources. As such, during the measurement period the sound pressure levels (or the “real time/live” noise levels) were recorded and identified for each component in between gaps in traffic or other sources to determine the contribution from each component. These are detailed and should be referenced in lieu of column three (3).

Table 3 Measured Noise Levels

Location	Date and Time	Measured Noise Level dBA		Measurement Observations
		L _{A90} ¹	L _{A10} ²	
Belrose Club Driveway, Along Hew Court Residents Boundary – See Figure 1	Friday 15 th April 2022, 6:30pm-8:00pm	43	51	<p><u>Outdoor family area and Playground NOT in use.</u> Due to colder temperatures, the outdoor family area/playground was not in use by patrons.</p> <p>Measured noise levels were mostly dominated by distant traffic noise from Forest Way. Small contribution from 8-10 people in the outdoor smoking area along the northern façade of the club building. Noise measurements are considered compliant with relevant acoustic criteria.</p> <p>Sound Pressure Levels from Forest Way contributed 48-52 dBA.</p> <p>Sound Pressure Levels from outdoor smoking area 46-48 dBA.</p> <p>Deemed Acoustically Acceptable</p>
	Saturday 16 th April 2022, 2:00pm-4:30pm	54	47	<p>All areas of the outdoor area were in use, outdoor smoking area, outdoor family area and playground. Additionally, a competition game of lawn bowls was ongoing during the entire measurement period on bowls green three (most southern).</p> <p>Lawn Bows Competition: 40-50 People Outdoor Smoking Area: 12-15 People Outdoor family area: 15-20 People Playground: 6-8 Children</p> <p>Sound Pressure Levels from Forest Way contributed 50-55 dBA.</p> <p>Sound Pressure Levels from outdoor smoking area 49-51 dBA</p> <p>Sound Pressure Levels from lawn bowls contributed 44-47 dBA.</p> <p>Sound Pressure Levels from outdoor family area smoking area <48 dBA.</p> <p>Sound Pressure Levels from Playground 49-53.</p> <p>Deemed Acoustically Acceptable</p>
<p><i>Note 1: The level of noise exceeded for 90% of the time. The bottom 10% of the sample is the L90 noise level expressed in units of dB(A).</i></p> <p><i>Note 2: The sound pressure level that is exceeded for 10% of the time for which the given sound is measured.</i></p>				

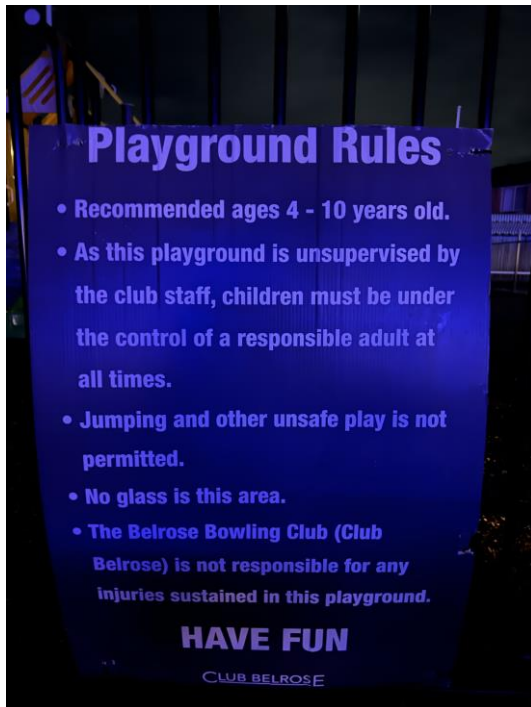
Discussion of Results and Recommendations

Results of the acoustic survey indicate that the operations which occurred during the acoustic survey would be acoustically acceptable with relevant requirements. In regard to each component, we note:

- The dominant noise source during both the day (7:00am-6:00pm) and evening (6:00pm-10:00pm) periods is traffic movements along Forest Way, noting it slightly reduces during the evening period.
- Noise from the use of the smoking during both a day and evening period is generally considered acoustically acceptable and do not recommend any additional recommendations.
- Noise from the use of the playground was the highest club noise source; generally with 6-8 children playing in the playground area compliance is likely. As discussed in further detail below, management of parents/staff and current time restrictions are recommended.
- Noise from the use of the outdoor family area was compliant during the day period. Measurements during the evening period could not be conducted. During the day period the area had between 15-20 people (not including children in playground). The use of this space was found to be compliant. Patrons were not creating a noise nuisance.
- Noise from the use of the bowling green is an expected activity based on the land zoning and activity type and therefore no assessment is required.

Currently the club has implemented several management controls for the outdoor outdoor family area and playground area, these include:

- Restricted use of the outdoor outdoor family area and playground area to all day until 8:30pm when patrons are asked to relocate inside to prevent noise disturbances during key periods.
- Constant security surveillance of the outdoor areas with the use of security cameras.
- Regular patrols by staff for bottle/plate collection and general observations.
- Implementation of the Clubs Plan of Management (PoM).
- Signs for Condition of Entry/use of the area, see below.



In summary, we believe that based on the information above, the general operation (like the parameters measured) would result in compliance with the NSW Liquor and Gaming acoustic requirements and or NSW EPA Noise Policy for Industry (NPI) 2017 where relevant.

For any additional information please do not hesitate to contact the person below.

Yours sincerely



PULSE WHITE NOISE ACOUSTICS PTY LTD
Matthew Furlong
Senior Acoustic Engineer

Appendix A – Acoustic Glossary

The following is a brief description of the acoustic terminology used in this report.

<i>Ambient Sound</i>	The totally encompassing sound in a given situation at a given time, usually composed of sound from all sources near and far.																				
<i>Audible Range</i>	The limits of frequency which are audible or heard as sound. The normal ear in young adults detects sound having frequencies in the region 20 Hz to 20 kHz, although it is possible for some people to detect frequencies outside these limits.																				
<i>Character, acoustic</i>	The total of the qualities making up the individuality of the noise. The pitch or shape of a sound's frequency content (spectrum) dictate a sound's character.																				
<i>Decibel [dB]</i>	The level of noise is measured objectively using a Sound Level Meter. The following are examples of the decibel readings of every day sounds; <table data-bbox="363 712 1077 1075"> <tr><td>0dB</td><td>the faintest sound we can hear</td></tr> <tr><td>30dB</td><td>a quiet library or in a quiet location in the country</td></tr> <tr><td>45dB</td><td>typical office space. Ambience in the city at night</td></tr> <tr><td>60dB</td><td>Martin Place at lunch time</td></tr> <tr><td>70dB</td><td>the sound of a car passing on the street</td></tr> <tr><td>80dB</td><td>loud music played at home</td></tr> <tr><td>90dB</td><td>the sound of a truck passing on the street</td></tr> <tr><td>100dB</td><td>the sound of a rock band</td></tr> <tr><td>115dB</td><td>limit of sound permitted in industry</td></tr> <tr><td>120dB</td><td>deafening</td></tr> </table>	0dB	the faintest sound we can hear	30dB	a quiet library or in a quiet location in the country	45dB	typical office space. Ambience in the city at night	60dB	Martin Place at lunch time	70dB	the sound of a car passing on the street	80dB	loud music played at home	90dB	the sound of a truck passing on the street	100dB	the sound of a rock band	115dB	limit of sound permitted in industry	120dB	deafening
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<i>dB(A)</i>	<i>A-weighted decibels</i> The ear is not as effective in hearing low frequency sounds as it is hearing high frequency sounds. That is, low frequency sounds of the same dB level are not heard as loud as high frequency sounds. The sound level meter replicates the human response of the ear by using an electronic filter which is called the "A" filter. A sound level measured with this filter switched on is denoted as dB(A). Practically all noise is measured using the A filter. The sound pressure level in dB(A) gives a close indication of the subjective loudness of the noise.																				
<i>Frequency</i>	Frequency is synonymous to <i>pitch</i> . Sounds have a pitch which is peculiar to the nature of the sound generator. For example, the sound of a tiny bell has a high pitch and the sound of a bass drum has a low pitch. Frequency or pitch can be measured on a scale in units of Hertz or Hz.																				
<i>Loudness</i>	A rise of 10 dB in sound level corresponds approximately to a doubling of subjective loudness. That is, a sound of 85 dB is twice as loud as a sound of 75 dB which is twice as loud as a sound of 65 dB and so on																				
<i>L_{Max}</i>	The maximum sound pressure level measured over a given period.																				
<i>L₁₀</i>	The sound pressure level that is exceeded for 10% of the time for which the given sound is measured.																				
<i>L₉₀</i>	The level of noise exceeded for 90% of the time. The bottom 10% of the sample is the L ₉₀ noise level expressed in units of dB(A).																				
<i>Leq</i>	The "equivalent noise level" is the summation of noise events and integrated over a selected period of time.																				
<i>Background Sound Low</i>	The average of the lowest levels of the sound levels measured in an affected area in the absence of noise from occupants and from unwanted, external ambient noise sources. Usually taken to mean the L _{A90} value																				
<i>dB (A)</i>	'A' Weighted overall sound pressure level																				
<i>Sound Pressure Level, L_p dB</i>	A measurement obtained directly using a microphone and sound level meter. Sound pressure level varies with distance from a source and with changes to the measuring environment. Sound pressure level equals 20 times the logarithm to the base 10 of the ratio of the rms sound pressure to the reference sound pressure of 20 micro Pascals.																				

Appendix B – Northern Beaches Council Letters

Letter #1 – 17th October 2017



17 October 2017



Belrose Bowling Club Ltd
146 Forest Way
BELROSE NSW 2085

Our ref: Pol2017/00611

Dear Belrose Bowling Club Ltd

Enquiry concerning alleged Noise Pollution at 146 Forest Way BELROSE

Council has received an enquiry concerning the alleged noise pollution created by an intruder alarm at the above premises.

You are advised not to create *offensive noise* as defined under the *Protection of the Environment Operations Act 1997*.

Offensive noise means noise:

- (a) that, by reason of its level, nature, character or quality, or the time at which it is made, or any other circumstances:
- (i) is harmful to (or is likely to be harmful to) a person who is outside the premises from which it is emitted, or
- (ii) interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the premises from which it is emitted, or
- (b) that is of a level, nature, character or quality prescribed by the regulations or that is made at a time, or in other circumstances, prescribed by the regulations.

Based on the current allegation, Council is not taking any further action, however if further enquiries are received Council may investigate and take further action consistent with relevant legislation & Council's *Compliance and Enforcement Policy*.

Should you have any enquiries about this matter please contact Omar El-Ahmad, Environmental Health Officer on (02) 9942 2111 or via council@northernbeaches.nsw.gov.au, quoting Pol2017/00611 for easy reference.

Yours faithfully

Omar El-Ahmad

Omar El-Ahmad
Environmental Health Officer

t 1300 434 434
e council@northernbeaches.nsw.gov.au
northernbeaches.nsw.gov.au
PO Box 1336 Dee Why
ABN 57 284 295 158

Dee Why Office:
755 Milwater Road
Dee Why NSW 2088
PO Box 14 Dee Why
t (02) 9971 4522

Mona Vale Office:
1195 Smart
Mona Vale NSW 2103
t (02) 9401 1000
f (02) 9401 1200

Manly Office:
1 Helgard Street
Manly NSW 2108
t (02) 991 1100

Letter #2 – 20th December 2021

Received 24.12.21



20 December 2021

Attn: The Club Manager
Belrose Bowling Club Ltd
146 Forest Way
BELROSE NSW 2085

24.12.21
RANG ROSEMARY &
COUNCIL STAFF ADVISED
THAT ROSEMARY IS ON
ANNUAL LEAVE TILL 4.1.22
& THAT WILL LEAVE A
MESSAGE FOR HER TO
CALL ME BACK.

Our ref: Pol2021/01846

Dear Sir/Madam

Warning Letter concerning Noise Pollution at 146 Forest Way, Belrose NSW

Council has received an enquiry concerning noise pollution created by activities and operations associated with the above premises. The enquiry relates to noise coming from patrons of the club yelling, screaming and shouting from the smoking area, outdoor beer garden and bowling green area.

Council has received numerous noise recordings which clearly identifies many people shouting, screaming and yelling.

The above activities have the potential to cause a 'public nuisance' by substantially and unreasonably interfering with the noise amenity of the residential area.

As the Manager of the Club, Council is requesting your immediate co-operation to manage the above noise concerns from the property so they are not creating a noise disturbance to nearby residential receivers.

The Office of Liquor and Gaming have been notified in relation to the noise concerns as they relate to a licensed venue.

If Council continue to receive noise complaints, a further investigation may be undertaken consistent with relevant legislation & Council's *Compliance and Enforcement Policy*.

Should you have any enquiries about this matter please contact Rosemary Roche, Environmental Health Officer on 1300 434 434 or via council@northernbeaches.nsw.gov.au, quoting Pol2021/01846 for easy reference.

Yours faithfully



Rosemary Roche
Environmental Health Officer

PO Box 62 Manly NSW 1555
t 1300 434 434 f 02 9976 1400
council@northernbeaches.nsw.gov.au
GBN 57 284 295 198

Dee Why Office:
725 Pittwater Road
Dee Why NSW 2099

Mona Vale Office:
1 Park Street
Mona Vale NSW 2103

Manly Office:
1 Belgrave Street
Manly NSW 2095

Avalon Office:
59A Old Barrenjoey Road
Avalon Beach NSW 2107

Letter #3 – 18th March 2022



18 March 2022

1301012100001122021201300232210222013

Belrose Bowling Club Ltd
146 Forest Way
BELROSE NSW 2085

Dear John Cormio

NOTICE OF INTENTION TO GIVE A DEVELOPMENT CONTROL ORDER

Section 9.34 of, and Part 6 to Schedule 5 to, the *Environmental Planning and Assessment Act 1979*

Premises: No. 146 Forest Way BELROSE NSW 2085
Lot: Lot 2 DP 851739
Reference No: EPA2022/0066

In accordance with clause 8 of Part 6 of Schedule 5 to the *Environmental Planning and Assessment Act 1979* (the "EP&A Act") you are given notice that Northern Beaches Council (the "Council") has formed the opinion that unauthorised development has been undertaken at the above mentioned premises for which a planning approval is required but has not been obtained. Accordingly, Council proposes to give a development control order (the "Order") which, should it issue, will require that this unsatisfactory state of affairs be rectified and otherwise remedied by the carrying out of the action specified in the Order.

The actions required, the relevantly applicable circumstances and the reasons for the proposed Order are detailed below in the description of the terms of the proposed Order Council intends to give.

You are invited to make representations to Council in accordance with clause 13 of Part 7 of Schedule 5 to the EP&A Act as to why an Order in terms of that described in the attached document should not be given or as to the terms of, or period for compliance with the proposed order.

For the purpose of making representations, you or someone on your behalf (namely, an Australian legal practitioner or agent) may make representations to Council. Any representations are to be made in writing within a period of **twenty-eight (28) days** from the date of this notice of intention to give a development control order.

If your representations are unsuccessful or no representations are made, Council may determine:

- to give an order in accordance with the proposed order, or
- to give an order in accordance with modifications made to the proposed order, or
- not to give an order.

Alternatively, you may ignore this notice of intention to give a development control order and an Order will be given either in the same terms as intended or with modified terms.

Page 1 of 6



Orders and fines may be issued or Court proceedings may be commenced without further notice. If the subject non-compliance has been complied with during this time period, it is **your responsibility** to advise Council in writing.

Furthermore, under clause 37 of Part 12 of Schedule 5 to the EP&A Act and clause 281C of the Environmental Planning and Assessment Regulation 2000, Council may also elect to issue a separate **compliance cost notice** to you in respect to all or any reasonable costs or expenses incurred by Council in connection with an investigation that leads to giving an Order, as follows:

- as respects to the preparation or serving of this notice of intention to give a development control order – up to an amount of \$500 and,
- as respects to an investigation that leads to the giving of an Order – up to an amount of \$1,000

Please note that these are separate fees that may be applicable in addition to any fines issued to you and your costs involved in resolving the matter that is the subject of the notice of intention/order.

Notice in respect of land or building owned or occupied by more than one person.

In accordance with clause 40 of, Part 13 of, Schedule 5 to the EP&A Act:

- (1) If land, including land on which a building is erected, is owned or occupied by more than one person:
- (a) a development control order in respect of the land or building is not invalid merely because it was not given to all of those owners or occupiers, and
 - (b) any of those owners or occupiers may comply with such a development control order without affecting the liability of the other owners or occupiers to pay for or contribute towards the cost of complying with the order.
- (2) Nothing in this Part affects the right of an owner or occupier to recover from any other person all or any of the expenses incurred by the owner or occupier in complying with such a development control order.

If you require any further information in relation to this matter, please contact Council's Building Control Officer, Jeremy Nicholson 1300 434 434 during normal business hours between 9:00am to 5:00pm or by council@northernbeaches.nsw.gov.au

Yours faithfully



Jeremy Nicholson
**BUILDING CONTROL
ENVIRONMENTAL COMPLIANCE**



DESCRIPTION OF THE TERMS OF THE PROPOSED ORDER COUNCIL INTENDS TO GIVE

DATE: 18 March 2022

TO: Belrose Bowling Club Ltd
146 Forest Way
BELROSE NSW 2085

PREMISES/LAND: No. 146 Forest Way BELROSE NSW 2085
Lot: Lot 2 DP 851739

Northern Beaches Council (the "Council") gives you an Order(s) as specified in the table to Part 1 of Schedule 5 to, the *Environmental Planning and Assessment Act 1979* (the "EP&A Act") in the circumstance and for the reasons detailed below.

ORDER/S GIVEN:

To Do What:	Circumstances When:
<p><u>Order No. 1 - Stop Use Order</u></p> <p>To stop using premises, specifically;</p> <ol style="list-style-type: none"> To stop using the north western green adjacent to the carpark, as a playground and beer garden for which planning approval is required but has not been obtained to the property known as 146 Forest Way BELROSE NSW 2085, (which is legally identified as Lot 2 DP 851739). 	<p>Premises are being used for a purpose for which a planning approval is required but has not been obtained, or</p>

To Do What:	Circumstances When:
<p><u>Order No. 3 – Demolish Works Order:</u></p> <p>To demolish or remove a building, specifically:</p> <ol style="list-style-type: none"> The playground and beer garden area located along the western side of north western green to the property known as 146 Forest Way BELROSE NSW 2085, (which is 	<p>A building requiring a planning approval is erected without approval.</p>



legally identified as Lot 2 DP 851739).	
2. The shed and outdoor cooking facilities located between the western side of the north western green and carpark to the property known as 146 Forest Way BELROSE NSW 2085, (which is legally identified as Lot 2 DP 851739).	
To Do What:	Circumstances When:
<u>Order No. 10 – Restore Works Order:</u> To restore premises to the condition in which they were before unlawful building or other works occurred, specifically: <ol style="list-style-type: none"> 1. To a green as per the approved plans under development consent 95/446 to the property known as 146 Forest Way BELROSE NSW 2085, (which is legally identified as Lot 2 DP 851739). 	An unauthorised building has been the subject of a Demolish Works Order or unauthorised works have been carried out.

REASONS FOR ORDER

1. Council received a complaint alleging that unauthorised building work and use have been constructed and undertaken at 146 Forest Way BELROSE NSW 2085.
2. An inspection undertaken by Council Officer on 15 February 2022 revealed the following observations:
 - The north western green adjacent to the carpark has been subdivided into a playground and beer garden which is situated along the western portion of the Green. The beer garden is 20 meters long by 11 meters wide. The playground is 15 meters long by 11 meters wide.
 - A free standing metal shed with cooking facilities located adjacent to western side north-western green. The shed is 5 meters wide by 20 meters long.
3. The premises is located within the land zoned Warringah LEP2011 - Land zoned RE2 Private Recreation.
4. The building works and use are not considered exempt from development consent under the provisions set out within the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, and a further search of Council's records identified that no prior approvals have been obtained for the building work and use to have occurred.



5. The undertaking of building works and use without prior Council consent, effectively removes the rights of surrounding residents, neighbours, stakeholders and interested parties to make submissions in relation to the premises through the assessment procedure under the *Environmental Planning and Assessment Act 1979*.
6. As the building works have not been subject to a formal development assessment or the issuing of a construction certificate, its unknown if the structural integrity and fire rating of the building works meet the requirements of the Building Code of Australia (BCA) and the building work may pose a serious risk to the occupants, neighbouring properties or the general public if the structure were to fail and collapse in the event of a fire.
7. As the building use has not been subject to a formal development assessment or the issuing of a construction certificate, Council has not assessed any amenity impacts such as noise, operational hours and lighting.
8. It is in the public interest that this unsatisfactory state of affairs be remedied as soon as possible.

TIME PERIOD FOR COMPLIANCE WITH ORDER

You are directed to carry out the schedule of works within the following specified periods:

- (a) As requested in Order 1 in the Schedule of Works, these works must be carried out within twenty eight **(28) days** from the date of this Order;
- (b) As requested in order 3 and 10 in the Schedule of Works, these works must be carried out within **sixty (60) days** from the date of this Order.

OFFENCE

It is an offence against the *Environmental Planning and Assessment Act 1979* (NSW) not to comply with any order: see section 9.37 of the EP&A Act. In the event that an order is issued and you do not comply, Council may issue penalty infringement(s) or commence Court proceedings to compel compliance and/or undertake a criminal prosecution.

PENALTY

The maximum penalty for non-compliance with this order is (a) in case of a corporation \$5 million, and for a continuing offence a further \$50,000 for each day the offence continues; or (b) in the case of an individual \$1 million, and for a continuing offence a further \$10,000 for each day the offence continues: see section 9.52 of the EP&A Act.

EXECUTION OF ORDER BY COUNCIL

If you fail to comply with the terms of an order Council may do all such things as are necessary or convenient to give effect to the terms of the order, including the carrying out of any work required by the Order, and may, among other things, recover from you the costs incurred by Council in so doing: see clause 34 of Part 11 of Schedule 5 to the EP&A Act.

RIGHT OF APPEAL AGAINST ORDER



If you wish to appeal against an Order you must appeal to the **Land and Environment Court**, Level 4, 225 Macquarie Street, Sydney NSW 2000, within **28 days** after the service of the Order on you: see Part 8, Division 8.5, Clause 8.18 of the *Environmental Planning and Assessment Act 1979*.

ORDERS THAT MAKE OR ARE LIKELY TO MAKE RESIDENTS HOMELESS

Where relevantly applicable, Council has prior to the issue of an order considered whether residents would be able to arrange satisfactory alternative accommodation in the locality. In the event that Council concluded that any resident would not be able to arrange satisfactory alternative accommodation in the locality, Council will provide, or has already provided, the resident with information as to the availability of satisfactory alternative accommodation in the locality together with any other assistance that Council considers appropriate: clause 2 of Part 5 of Schedule 5 to the EP&A Act.