

Environmental Health Referral Response - industrial use

Application Number:	Mod2025/0424
Proposed Development:	Modification of Development Consent DA2024/0946 granted for Use of the premises as a restaurant
Date:	30/09/2025
To:	Alex Keller
Land to be developed (Address):	Lot B DP 329073 , 80 Undercliff Road FRESHWATER NSW 2096

Reasons for referral

This application seeks consent for large/and or industrial development.

And as such, Council's Environmental Investigations officers are required to consider the likely impacts.

Officer comments

General Comments

Environmental health has considered the original conditions of consent and planning panel assessment report, information provided with the modification proposal as well public submissions to date.

It is considered that the proposal would unreasonably impact on the reasonable enjoyment of residential receivers in a number of ways.

1. The extension of amplified music to be permitted until 11pm has the high potential to create sleep disturbance and is largely inconsistent with the intention of the original development that this modification seeks to modify - It is notes with the planning panel assessment report (when assessing noise limitations which seek to "...allow for appropriate respite for neighbouring development...")

2. *"The use of amplified music on the external terraces ... solely be for the purposes of a ceremony (typically accompanying weddings)"*:

Up to twice a day, as follows:

- Time slot one (1); between 11:00am and 1:30pm.
- Time slot two (2); between 4:30pm and 7:00pm.

The broad description of "ceremony" does not provide confidence that the amenity of the surrounding properties can be maintained as the nature and intensity of such ceremonies, from a noise standpoint, cannot be readily defined.

At its worst, this represents the overall potential for a large number of outdoor daily "ceremonies" at the premises, seemingly ancillary to the main use, however having the potential to be for the entire duration of times proposed (by power of consent if approved), and create noises issues that has the potential to unreasonably affect the amenity of the surrounding area.

Other than the possible ability to noise limit any "house" sound equipment, there is also the potential for musical artists and entertainers to bring their own sound amplification equipment, resulting in high potential to create offensive noise, with the limiting factors of behavioral noise control measures as outlined in any *Plan of Management* being the main method available to potentially mitigate noise in an outdoor environment, as opposed to any definitive sound attenuation achieved by building design or built

form controls.

Accordingly, the proposal is not supported by Environmental Health.

Recommendation

REFUSAL

Planning Comment:

The above H&B assessment considerations are noted and it potentially can include intrinsic crowd noise of persons at night in such gatherings associated also with service of alcohol.

The proposal is therefore unsupported.

Note: Should you have any concerns with the referral comments above, please discuss these with the Responsible Officer.

Recommended Environmental Investigations Conditions:

Nil.