



Statement Of Environmental Effects

Section 4.55(1A) Modification

DA2025/222645

Condition 24 (Noise Management)

Pilu at Freshwater

80 Undercliff Road, Freshwater

Prepared by Planning Lab

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1 Summary

This Statement of Environmental Effects (SEE) has been prepared to accompany an application under Section 4.55(1A) of the Environmental Planning Assessment Act 1979 ('the Act') to modify development consent DA2025/222645 relating to "Pilu at Freshwater", 80 Undercliff Road, Freshwater ('the site').

This application seeks approval to amend the trading hours of Condition 24 - Noise Management to enable the responsible use of amplified music both externally and internally within the premises, subject to additional management and noise mitigation measures. This amendment also requires an update of the approved Plan of Management.

On 19 March 2025, the Northern Beaches Local Planning Panel granted development consent for the development application DA2025/222645 to formalise the use of the premises as a restaurant.

Following the determination of DA2025/222645, the site owner has re-engaged the acoustic consultant for the original DA, Pulse White Noise Acoustics (PWNA), to provide further advice on how best to manage the noise generated from amplified music for the restaurant, based on the following operational conditions:

1.1.1 Use of amplified music externally within the outdoor terraces:

- 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 use of amplified music on the external terraces would solely be for the purposes of a ceremony (typically accompanying weddings).
- For this assessment, we have assumed a noise level of 73 dBALA10@ 3m from the speaker (equal to a Sound Power Level of 90dBA).

Note: The assumed noise level of the speaker externally is identical to the assumptions made originally in the PWNA assessment submitted acoustic report (DA/2024-0946) - No change.

1.1.2 Within indoor dining areas amplified music is proposed until 11:00pm subject to:

- All windows and doors are to be closed.
- Internal noise levels within the venue are not to exceed 90dBA LA10 (Sound Pressure Level - average within space). Based on a detailed assessment of these conditions, PWNA concluded that:

The proposed use of amplified music within the lower and middle external terrace and amplified music within the main building complies with the acoustic performance requirements in the previously prepared PWNA Acoustic Assessment (reference 220001 - Pilu, 80 Undercliff Road, Freshwater - Acoustic Assessment -



R5, dated 7th March 2025). The PWNA advice and a revised Plan of Management accompanies this modification application.

These proposed revised operational conditions require an amendment to Condition 24 of DA2025/222645, as detailed in this report.

In assessing the application under Section 4.55 (1A) of the Act, the key considerations are to demonstrate that the modified development is substantially the same as the approved DA, and results in no unreasonable environment impacts.

The subject proposal does not involve any physical works, additional patron capacity, extension of approved trading hours, or any change or intensification of the use of this longstanding and reputable restaurant.

The proposed revised use of amplified music in various sections of the premises has also been supported and verified by a qualified acoustic consultant as compliant with existing Council and State Government technical standards, and the modified operational conditions should act to effectively manage any unreasonable impacts upon the amenity of the neighbouring residential area.

On that basis, pursuant to section 4.55 (1A) of the Act, it is considered that the proposed modification of the original consent for the use of the Pilu restaurant is relatively minor in nature, with minimal environmental impacts, and will result in substantially the same development to that which has previously been approved.

This SEE has assessed the proposal against the relevant matters outlined in Section S4.15 of the Environmental Planning and Assessment Act 1979 and finds that the proposal generally satisfies the objectives and provisions of the relevant planning instruments, the Warringah Local Environmental Plan 2011 and Warringah Development Control Plan 2011, and it is therefore considered suitable for approval.

2 Site Location and Context

The proposal relates to 80 Undercliff Road, Freshwater ('the site') which is legally known as Lot B DP329073. The site is approximately 977.4m² in area. It is occupied by a two-storey residential federation style building with timber weatherboard walls and a tiled multi-gabled roof. The site is a heritage item known as "Freshwater Restaurant" and the site has had a long-standing use as a food and drink premises. It is currently occupied by Pilu at Freshwater Restaurant and a kiosk.

It has a southern frontage to Undercliff Road with a pedestrian entrance. The western, eastern and northern boundaries of the site are adjacent to public open space known as the Undercliff Reserve, which surrounds the adjacent Freshwater Beach.

To the north of the site is a Council car park that is accessible from Moore Road. Vehicle access to the building is provided via a driveway from the Council car park.

The site is located in the vicinity of detached residential dwellings which are located to the south and west of the site. To the south, they are separated by Undercliff Road and to the west, they are separated by the public open space.





Figure 1 – Aerial photograph of the Site and surrounds (Source: SIX Maps)

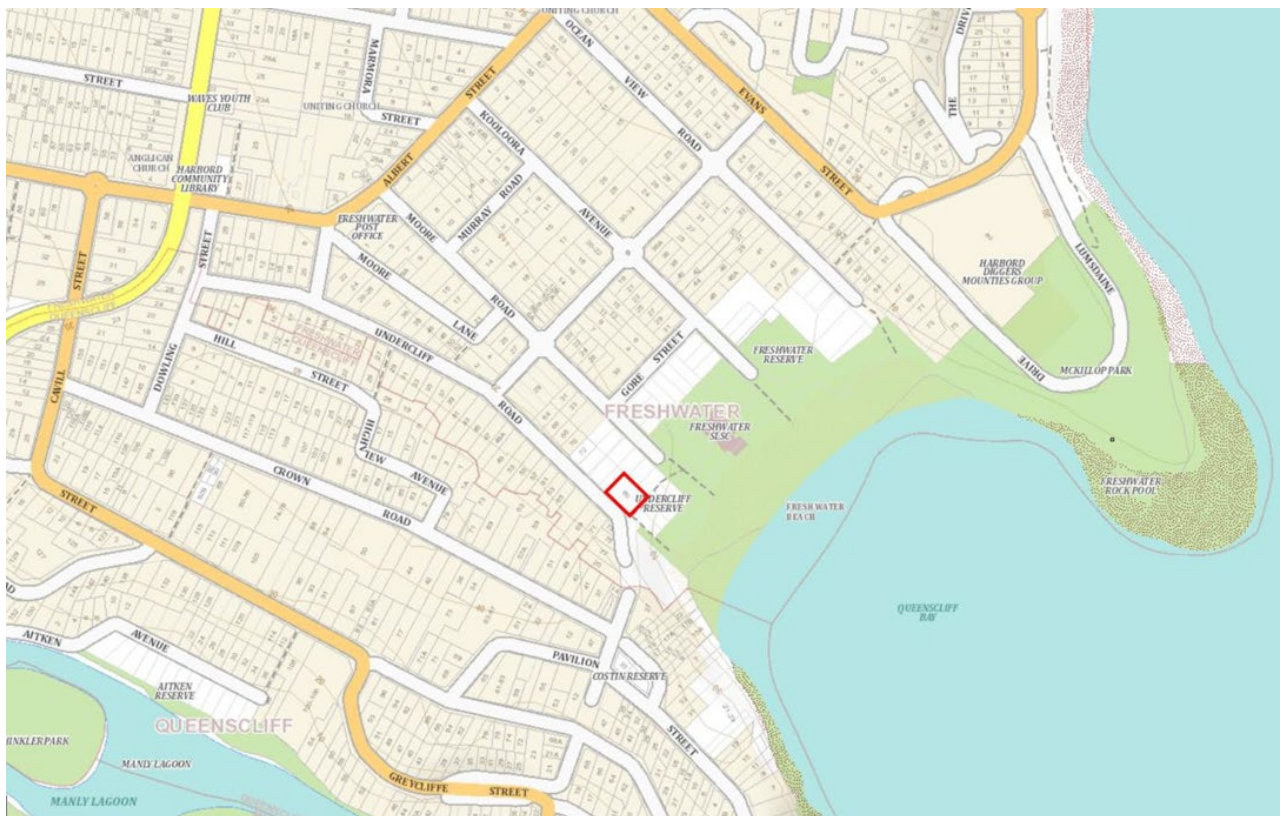


Figure 2 – Locality Map (Source: SIX Maps)



3 Relevant Approvals History

A detailed Approvals History for this site was included in the Statement of Environmental Effects for DA2025/222645.

In summary, the site has a longstanding historic and ongoing use as a restaurant. Pilu began operating a fine dining restaurant on the site in 2004 relying on the existing development consents 1980/311 and 1983/177 from the early 1980s. As part of its restaurant operations, Pilu has held private dining bookings at the premises since its establishment. Private dining bookings were also held by the former operators prior to 2004. Such bookings have been held as an ancillary offering to its primary use as a fine dining a-la-carte restaurant, for several decades.

The premises are the subject of liquor licence number LIOH400104162 which has applied to the premises now for some 2 decades. The licence is presently the subject of approved hours until 2.00 am.

On 19 March 2025, the Northern Beaches Local Planning Panel granted development consent for the development application DA2025/222645 to formalise the use of the premises as a restaurant.

4 Proposal Summary

This application seeks approval under Section 4.55 (1A) of the Act to amend Condition 24 - Noise Management of development consent DA2025/222645 relating to "Pilu at Freshwater", 80 Undercliff Road, Freshwater, to enable the use of amplified music both externally and internally within the premises, subject to additional management and noise mitigation measures. This amendment also requires an update of the approved Plan of Management.

On 19 March 2025, the Northern Beaches Local Planning Panel granted development consent for the development application DA2025/222645 to formalise the use of the premises as a restaurant.

Following the determination of DA2025/222645, the site owner has re-engaged the acoustic consultant for the original DA, Pulse White Noise Acoustics (PWNA), to provide further technical advice on how best to manage the noise generated from amplified music for the restaurant, based on the following operational conditions:

4.1.1 Use of amplified music externally within the Middle and Lower External Terraces:

- 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 use of amplified music on the external terraces would solely be for the purposes of a ceremony (typically accompanying weddings).



- For this assessment, we have assumed a noise level of 73 dBALA10@ 3m from the speaker (equal to a Sound Power Level of 90dBA).

Note: The assumed noise level of the speaker externally is identical to the assumptions made originally in the PWNA assessment submitted acoustic report (DA/2024-0946) - No change.

4.1.2 Within indoor dining areas amplified music is proposed until 11:00pm subject to:

- All windows and doors are to be closed.
- Internal noise levels within the venue are not to exceed 90dBA LA10 (Sound Pressure Level - average within space).

Based on these changes, the proposed modifications therefore necessitate amendments to Condition 24 of the Development Consent DA2025/222645 which are identified below. Words proposed to be deleted are shown in strike through and words to be inserted are shown in ***bold italics***.

24. Noise management

The restaurant is to be operated in accordance with the following:

- Any amplified music must be limited as follows: to, and restricted during the hours of 10:00am and 10:00pm. Noise levels must be limited to 90 dBA Sound Power Level (or equal to 73 dBA @ 3m) when measured as a sound pressure level.

For the lower and middle outdoor terrace areas:

- Exclusively in association with a ceremony, for up to two occasions per day, being held between 11:00am and 1:30pm AND between 4:30pm and 7:00pm.
- Music is limited to 73dBA @ 3m LA10 from any speaker (equal to Sound Power 90dBA).

For indoor dining areas:

- 90dBA LA10 (Sound Pressure Level).
- During all permitted trading times.
- All doors and windows must be closed during amplified music, doors and windows are permitted to be open during background music as per below.
- ~~No outdoor amplified music.~~
- ~~Outdoor background and/or acoustic (non amplified) music is limited to 10pm.~~
- Background music is assumed to be 65 dBA for dining areas, all measured as a sound pressure level.



- All doors and windows are to remain shut after 10:00pm and not opened before 7:00am and anytime amplified music is used. Low level background music is permitted to be played with windows and doors open.
- Removal of glass or waste should be done internally and must not be externally of the premises after 8:00pm and before 7:00am.
- Signs must be displayed at all exits reminding patrons to be mindful of noise when leaving the premise.
- A revised Plan of Management (PoM) is to be prepared based on the following conditioned amendments:
 - Amended Operating Hours
 - Amplified and non-amplified and background music requirements
 - Opening of windows and doors
 - A contact number must be displayed for the purposes of receiving any complaints if they arrive.
 - A copy of Pom to be available on restaurant's webpage.

The PoM should be sent to Council and approved prior to operating under this consent. The PoM is to reviewed regularly to ensure any required updated proposed for approval by Council.

Reason: To maintain reasonable levels of amenity to residential neighbouring properties.

Justification:

The condition is proposed to be modified to enable the responsible use of amplified music both externally and internally within the premises, subject to additional management and noise mitigation measures. This amendment also requires an update of the approved Plan of Management.

Refer to **Figure 3** below for a site plan identifying Indoor Dining Areas and Lower and Middle Outdoor Terrace Areas.



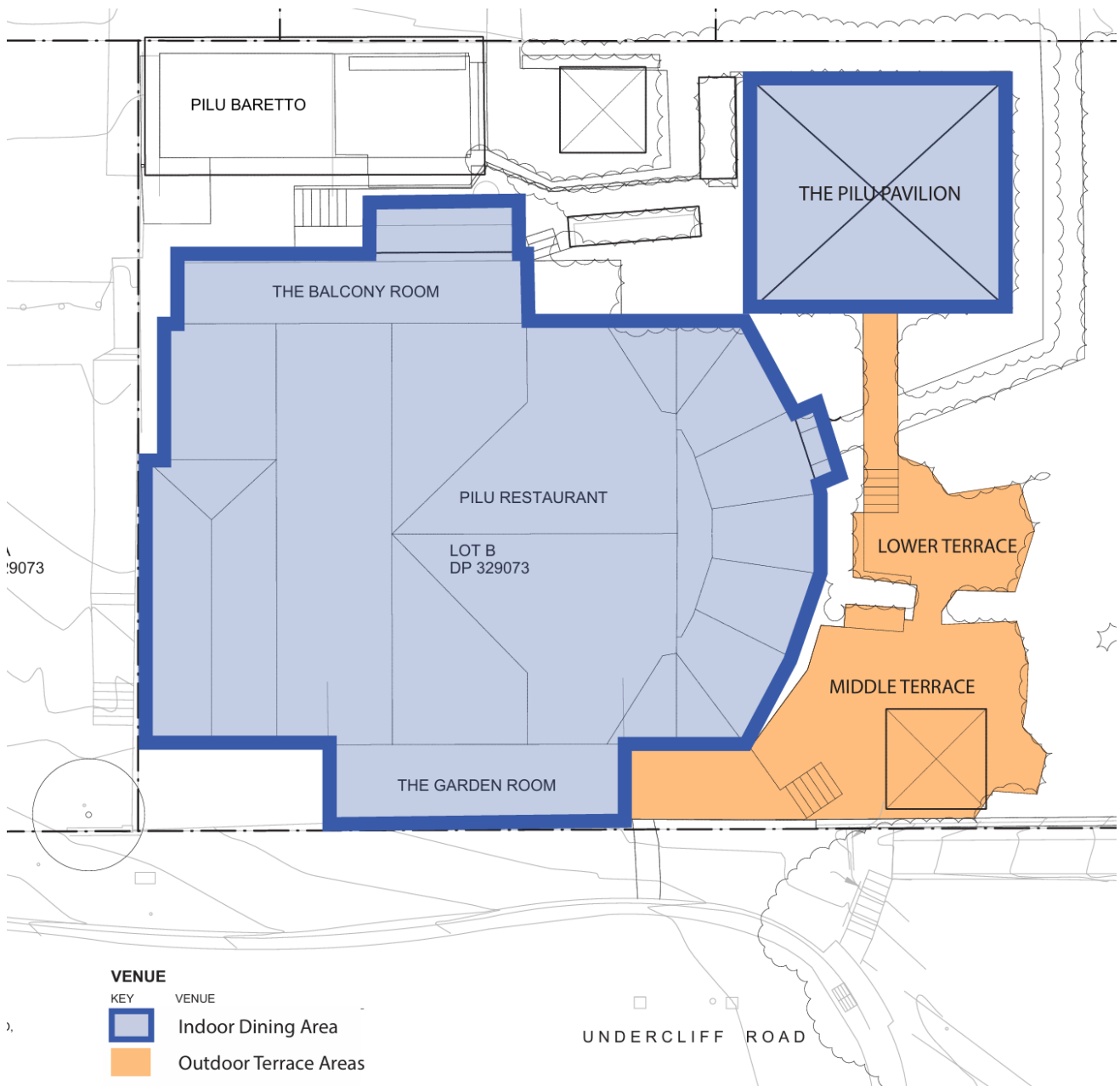


Figure 3 –Site Plan for Amplified Music Areas (Source: McIntosh & Phelps Architecture)



5 Statutory Planning Framework

5.1 Section 4.55 (1A) of the Act – Substantially the Same Development

In assessing the application under Section 4.55 (1A) of the Act, the key considerations are to demonstrate that the modified development is substantially the same as the approved DA, and results in no unreasonable environment impacts. The subject proposal does not involve any physical works, additional patron capacity, extension of approved trading hours, or any change or intensification of the use of this longstanding and reputable restaurant.

The proposed revised use of amplified music in various sections of the premises has also been supported and verified by a qualified acoustic consultant as compliant with existing Council and State Government technical standards. On that basis, pursuant to section 4.55 (1A) of the Act, it is considered that the proposed modification of the original consent for the use of the Pilu restaurant is relatively minor in nature, with minimal additional environmental impacts, and will result in substantially the same development to that which has previously been approved.

5.2 Statutory Assessment – Section 4.15 of the Act

The determination for approval of DA2025/222645 was based on a detailed assessment of relevant matters under Section 4.15 of the Act, most notably the key provisions of the Warringah Local Environmental Plan 2011 and Warringah Development Control Plan 2011.

In terms of the LEP, the subject proposal does not involve any physical works, additional patron capacity, extension of approved trading hours, or any change or intensification of the use of this existing restaurant, and therefore retains permissibility and consistency with LEP's RE2 Private Recreation zone and its significance as a local heritage site.

Similarly, the subject proposal retains consistency with relevant DCP provisions, such as car parking and accessibility.

Based on a detailed assessment of these conditions, PWNA concluded that:

In terms of environmental impacts, following the determination of DA2025/222645, Pulse White Noise Acoustics (PWNA), has provided further advice on managing any sound generated by amplified music for the venue, based on operational conditions identified in Section 4 of this report.

They can fully support the proposed use of amplified music within the lower and middle external terrace and amplified music within the main building (assuming the parameters detailed in their advice); and

- They can confirm full compliance with the legislative acoustic requirements formulated in the previously prepared PWNA Acoustic Assessment (reference 220001 - Pilu, 80 Undercliff Road, Freshwater - Acoustic Assessment - R5, dated 7th March 2025) are achieved.



These proposed revised operational conditions require an amendment to Condition 24 of DA2025/222645, as detailed in this report.

The PWNA advice and a revised Plan of Management accompanies this modification application.

On that basis, it is considered that the modification application satisfies the requirements of Section 4.15 of the Act.

6 Conclusion

This SEE finds the proposed modification of consent conditions to be relatively minor and without discernible impact and therefore acceptable under S4.15 of the Environmental Planning and Assessment Act 1979.

The proposed modifications will result in a development which is substantially the same as the approved development in Consent DA2025/222645. It is therefore assessable as a S4.55(1A) application.Heading 1, used for section titles (listed in table of contents





planninglab.com.au

**Suite 195, 20-40 Meagher Street
Chippendale NSW 2008**