

STATEMENT OF ENVIRONMENTAL EFFECTS

FOR

SECTION 4.55 (1A) MODIFICATION TO
DEVELOPMENT CONSENT

DA 2021/0669

FOR

DEMOLITION WORKS AND CONSTRUCTION OF
A NEW RESTAURANT, CARPARKING AND
ASSOCIATED USES

AT

LOT 7005 DP 1117451 , 1193 BARRENJOEY ROAD,
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1.0 INTRODUCTION

This Statement of Environmental Effects (SEE) has been prepared in support of a Section 4.55 (1A) application for the proposed modifications to the approved development on the subject site under DA2021/0669 comprising replacement of the existing Boathouse café/restaurant and associated infrastructure including carparking.

In preparing this Modification Application, I have attended the subject site and reviewed the following documentation as part of the assessment process-

- Development Consent DA 2021/0669 (As modified).
- Environmental Noise Impact Assessment prepared by Day Design, Consulting Acoustic Engineers (dated 4 October 2023)
- Written confirmation from Northern Beaches Council that the acknowledged hours of operation of the nearby Dunes café/restaurant extend to midnight 6 days a week.

The 4.55 modification seeks approval for Condition 96 of the development consent 2021/0669 to be modified as follows –

The existing development consent condition 96 states –

96. Hours of Operation

The hours of operation outside of daylight saving are to be restricted to:

- Monday to Saturday – 7.00am to 4.00pm
- Sunday and Public Holidays – 7.00am to 4.00pm

The hours of operation during daylight saving are to be restricted to:

- Monday to Thursday – 7.00am to 4.00pm
- Friday and Saturday – 7.00am to 10.00pm
- Sunday – 7.00am to 4.00pm

Upon expiration of the permitted hours, all service (and entertainment) shall

immediately cease, no patrons shall be permitted entry and all customers on the premises shall be required to leave within the following 30 minutes.

Reason: Information to ensure that amenity of the surrounding locality is maintained.

THE REQUESTED MODIFICATIONS

The following modifications to the development consent 2021/0669 are proposed.

It is requested that the provisions of condition 96 be amended as follows –

96. Hours of Operation

The hours of operation of the approved use are to be restricted to:

Monday to Sunday (inclusive) 7.00am to 11.00pm

Upon expiration of the permitted hours, all service (and entertainment) shall immediately cease, no patrons shall be permitted entry and all customers on the premises shall be required to leave within the following 30 minutes.

Reason: Information to ensure that amenity of the surrounding locality is maintained.

It is my professional view that the proposed modifications should be assessed as “modifications involving minimal environmental impact as the proposal is accompanied by an acoustic assessment of the potential impacts of the modification which states that the calculated level of noise emission from The Boathouse during the proposed operating hours comply with the acceptable noise limits at all receptor locations.

The development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all)” pursuant to Division 4.55 (1A) of the Environmental Planning and

Assessment Act, 1979, due to the fact that there will be no unreasonable adverse amenity impacts on adjoining properties or the public domain.

REASONS FOR THE PROPOSED MODIFICATION

The requested modification seeks to extend the hours of operation of the approved use on the subject site in a manner that is consistent with the hours of operation of the nearby Dunes restaurant which, according to written advice from Northern Beaches Council is able to operate from 8 AM to midnight, Tuesday to Sunday with no seasonal restrictions.

It should be noted that Dunes restaurant is located at a significantly closer distance to residential areas and the subject site and it can there be safely concluded that, subject to effective management, the proposed modification will not result in any unreasonable impact upon the residential receptors identified in various acoustic reports.

Potential impacts upon the locality have been assessed in the Environmental Noise Impact Assessment document incorporated into the modification application and, subject to the following administrative noise controls being adopted by management, the proposal is satisfactory –

- Amplified music in The Boathouse should be limited to a maximum L_{10} level of 95 dBA at 1 m from any speaker between 7 AM and 11 PM;
- The Boathouse management should regularly measure the maximum L_{10} noise level at 1 m from the speakers with a sound level meter (minimum Type 2 m capable of measuring L_{10} noise levels or an equivalent L_{eq} noise level) during a function when amplified music is being played, alternatively, an in-house sound system with a noise limiter (max output limited to L_{10} level of 95 dBA at 1 m) may be installed;
- External speakers located in the outdoor covered deck area should be

oriented to project sound towards the or West – North – West, i.e. towards the Pittwater;

- There should be no amplified music at The Boathouse between 11 PM and 7 AM on any given day;
- Patrons should be encouraged not to make an unreasonable level of noise when leaving The Boathouse;
- Management should ensure patrons attending functions park their vehicles and parking zones 1, 2 and 3 only;
- The Plan of Management prepared on behalf of Barrenjoey Boat shed Proprietary limited 'Plan of Management' and attached as Appendix E, should be followed and strictly enforced by The Boathouse management at all times during the operation of the venue.

DIVISION 4.55 – MODIFICATION OF CONSENTS– GENERALLY,

This modification application is submitted to Northern Beaches Council under the provisions of Division 4.55 – modification of consents– generally,

(1A) Modifications involving minimal environmental impact

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—

(a) it is satisfied that the proposed modification is of minimal environmental impact,

RESPONSE

The minor nature of the requested modifications will be of minimal environmental impact.

The potential impacts of the modification to the approved hours of operation have been assessed by qualified and experienced acoustic consultants and, subject to the recommendations contained within the accompanying

Environmental Noise Impact Assessment report will result in no noise disturbance to any nearby residential receptors identified within the subject report.

and

(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all),

RESPONSE

The development as proposed to be modified will be the same development for which development consent was granted.

and

(c) it has notified the application in accordance with—

(i) the regulations, if the regulations so require, or

(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent,

RESPONSE

The requested modification will be notified in accordance with Council's code of practice for sites owned or managed by Northern Beaches Council.

and

(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.

RESPONSE

Any submissions received will be considered by Council.

4.0 DIVISION 4.15 EVALUATION

7.6 Matters for consideration—general

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the

development the subject of the development application:

(a) the provisions of:

(i) any environmental planning instrument, and

(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and

RESPONSE

The relevant provisions of the PLEP and have been addressed in the body of the original Statement.

(iii) any development control plan,

RESPONSE

The relevant provisions of the Pittwater DCP have been considered by Council during the assessment of the parent DA, no material changes are proposed to the approved development design or location.

(iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4,

RESPONSE

No planning agreement is applicable to the subject site and operations thereon.

and

(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),

RESPONSE

The relevant regulations have been given due regard in the consideration of this request.

and

(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,

RESPONSE

The requested modifications will have no material impacts upon the environment, either natural or built as the modifications do not change the environmental performance of the proposal outside the environmental criteria regulating the construction and ongoing management of the subject site.

(c) the suitability of the site for the development,

RESPONSE

The subject site, by virtue of its existing layout, location and approved use is suitable for the modified proposal.

(d) any submissions made in accordance with this Act or the regulations,

RESPONSE

Any submissions made in response to councils notification of the proposal will be given due consideration during the assessment.

(e) the public interest.

RESPONSE

The proposal endorses the public interest by allowing the proposal to progress in a manner that is endorsed by the relevant technical professionals and does not materially alter the approved proposal.

Environmental Planning Instruments

The proposal as approved and as modified remains a permissible development under the provisions of the Pittwater Local Environmental Plan.

Development Control Plans

The proposal is bound by the provisions of Pittwater Development Control Plan.

Impact on the Natural Environment.

The proposed modification will not impact upon flora and fauna, soil or water quality, air quality or the conservation of natural resources.

Impact on the Built Environment.

Scenic qualities – The proposed modification is consistent with the current and future character of the locality.

Compatibility with adjacent land uses –The proposed modification will not materially alter the compatibility with the adjacent land uses.

Bulk and scale – The proposed amendments will not materially impact upon bulk and scale of the approved development of the Boathouse restaurant and associated works.

Overshadowing – The proposed modification will not impact upon the solar access to nearby sites.

Views and vistas – There will be no impacts upon views and vistas across or around the subject site.

Site design – The refinements to the approved works are considered reasonable for the subject site.

Public domain – There are no works proposed in the public domain aside from the approved works.

Amenity Impacts – I consider that there will be no unreasonable amenity impacts from the proposed modification. This is supported by the conclusions of the Environmental Noise Impact Assessment report submitted.

Impact on the Social and Economic Environment.

The proposal is unlikely to result in any negative social or economic impacts.

Suitability of the Site.

The subject site, by virtue of its approved development, zoning, topography and locality is suitable for the proposal.

6.0 SUMMARY

The desire by the operators of the subject café/restaurant has identified a need for the requested hours of operation. This is also supported by the operation of the nearby café restaurant within the Governor Phillip Park precinct has similar hours of operation and to the author's knowledge did not receive any concerns from nearby residences or operators regarding the activities thereon.

The proposed modifications are, by any measure, minor and it is therefore reasonable for Council to favourably consider this submission and endorse the requested modifications due to the reasonableness of the proposal and lack of material impacts.

The granting of modified condition 96 is able to be satisfactorily managed by incorporating within the Plan of Management for the site operations.

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11 DECEMBER 2023