
Sent: 18/02/2022 10:53:26 PM

Subject: Mod2022/0007 1031 Barrenjoey Road Palm Beach Development Submission

Attachments: Mod20220007 Development Submission.pdf;

Please find attached my development submission document regarding a development proposal amendment at 1031 Barrenjoey Road, Palm Beach.

My apologies for the letter being submitted late. The website said the letter would still be considered providing the decision had not been made. I hope this is the case as it's a matter I feel strongly about.

Leanne Tate

To Whom it May Concern

I am writing today to convey my strong objection to the proposed modification of development consent for 1031 Barrenjoey Road Palm Beach (Mod2022/0007) and express my dissatisfaction with the councils discission regarding the original development proposal at the same address (DA2021/1311).

The statement of modification, prepared by Turnbull Planning International PTY Limited, gives several reasons for the proposed modification, several of which I would like to discuss here:

Firstly, the statement suggests that by relocating the acoustic screen the garden bed will no longer be able to be enjoyed by the southerly neighbors nor dining patrons. The garden bed's primary purpose (together with the acoustic screen) is to ensure the development minimizes any unreasonable impacts (such as noise pollution) upon neighboring properties (condition 5B & 6 "Amendment to the approved plans"). It is not to provide patrons with an aesthetically pleasing focal point while dining. Any garden bed, no matter how aesthetically pleasing will not adequately compensate for the resident's inability to enjoy their own gardens due to the noise created by this development.

The statement also reasons that the addition of acoustic screening will create a sense of enclosure which is undesirable from a health perspective and also for aesthetic reasons. I would suggest the sense of enclosure could be easily mitigated by the removal of the illegal awning from above the garden bed in question (condition 5A "Amendment to the approved plans").

Any concerns over maintence, specifically the "tunnel like effect" that would be created between the acoustic wall and neighboring fence could be easily resolved with a more suitable plant choice. Give how easily resolved this particular "issue" is I don't believe it should be considered when the council makes a decision on this amendment.

The statement then attempts to justify the retention of the illegal awning, explaining that the transparent panels allow the light to ingress and provide acoustic benefits for the premises neighbor. The original development proposal (DA2021/1311) was approved based, in part on the findings of an acoustic report prepared by Acoustic dynamics. The report clearly states that a number of measures, including installing acoustic insulation into the awning roof (recommendation 5.1.1) are required to ensure noise emissions from activities associated with the proposed restaurant are kept to a minimum. If the existing structure was sufficient the report would not have made this recommendation. Therefore, the reasoning for retaining the structure, as is (that it provides acoustic benefits for the neighbor) has no credible scientific basis. The report also specifies that only 75% of the awning's surface area needs to be fitted with acoustic insulation (recommendation 5.1.1) leaving 25% for transparent panels and the ingression of natural light.

The extension of the premises opening hours into the evening, also suggest some artificial light will need to be installed in this area regardless and should bolster any natural light deficiency experienced.

The statement also implies that the dense planting (bamboo) and fence located on the southern boundary (by the premises neighbor) provides sufficient acoustic buffering. While it was not stated specifically, it was heavily implied and I find this to be highly unethical and not compliant with best practice. I will simply refer to my above argument regarding this implication. If acoustic screening was not required the acoustic report would not have recommended it (recommendation 5.1.1). I wish to remind council it is not the neighboring properties responsibility to provide its own acoustic protection from a commercial business. The onus falls to the development applicant / operational business at all times.

Finally, in regards to the various development proposals at the same address (TA2020/0565&DA2021/1311). I found your total dismissal of the communities concerns disappointing and your reluctance to impose development conditions alarming.

Firstly, in regards to the removal of the Norfolk Pine (TA2020/0565) why were the conditions imposed on approval not enforced by the council? One native tree was to be planted within three months of the applications approval (condition 2. E). The application was approved in October 2020 and in the sixteen months that have lapsed an illegal deck and awning have been built and continue to be in use. What excusable reason could the council have to allow this to happen? Are all native trees in the surrounding area to be treated similarly? Cut down with no plan to replace them? By allowing development conditions, such as replacement planting to be ignored the council is in breach of several state and federal laws. It also shows a total disregard for councils' own policy. The Northern Beaches Councils *2040 Environment and Climate Change Strategy* clearly states (strategy 4.6) that the governing body will "work to prevent unlawful actions, such as illegal clearing and development, by implementing enforcement and compliance activities to reduce the loss of biodiversity". A 50-year-old tree was lost and due to the council's negligence, it will not be replaced.

Secondly, in regards to the community concerns raised in the original development proposal (DA2021/1311) and the subsequent Development Application Assessment Report. The report states that concerns were raised that the proposed hours of operation extension will unreasonably impact upon the acoustic amenity of surrounding residential dwellings in the late evening. The council found that the proposed extension to operating hours were generally consistent with the existing approved hours of operation and therefore would not cause any additional acoustic impacts. I note the current approved hours of operation are as follows: 12pm to 7pm (Monday to Thursday), 12pm to 9:30pm (Friday and Saturday) and 12pm to 8pm (Sunday). The café does not operate within these hours and hasn't for many years. It is open from 7am to 3pm, seven days a week. Can

the council confirm whether the café is operating illegally? Or has an error been made within the above-mentioned report? Any extension of these hours would cause a significant acoustic impact. The café generates no noise after 3pm (as its closed). Its operation after this time on any given day would generate approximately 100% more noise than it does currently. I feel the residents, therefore have a right to be concerned and find the council's decision on this matter to be highly unsatisfactory. I also wish to comment that the resident's concerns regarding parking are of a similar nature. The café opens at 7am and closes at 3pm, there is an increased demand for parking during these hours due to the presence of the premises patrons. Any extension to the premises hours beyond 3pm would naturally see an increase in the demand for parking after this time. The council's conclusion that "the proposed development is not expected to increase demand for parking above that of the existing business" is simply not logical. Again, I therefore feel the residents have the right to be concerns and I once again find the council's decision to be highly unsatisfactory.

Thank you for taking the time to read this submission. I honestly feel that the approval of the original development proposal (DA2021/1311) was merely a box ticking exercise for a council who has failed time and again to enforce its own policy. I hope you will review and consider the current submissions with the correct due diligence so that the community can move forward with a renewed confidence in its council.

Leanne Tate