

DETERMINATION OF APPLICATION FOR MODIFICATION OF DEVELOPMENT CONSENT

Modification Application No: Mod2023/0684

Development Consent modified: DA2021/0669

Description of development to be carried out under the consent (as previously modified): Demolition works and construction of a new restaurant, carparking and associated uses, including a Voluntary Planning Agreement.

Address and particulars of title of land on which development to be carried out: Lot 7005 DP 1117451, 1193 Barrenjoey Road PALM BEACH NSW 2108
Lot 7002 DP 1117592, 1193 Barrenjoey Road PALM BEACH NSW 2108
Lot 298 DP 721522, 1191 Barrenjoey Road PALM BEACH NSW 210

Description of modification to the development consent: Modification of Development Consent DA2021/0669 granted for Demolition works and construction of a new restaurant, carparking and associated uses, including a Voluntary Planning Agreement.

MODIFICATION SUMMARY TABLE

Application Number	Determination Date	Modification description
PAN-397616 Mod2024/0684	The date of this notice of determination	Modification to extend the operating hours. Insert additional condition 1C (Approved plans and documentation). Amend condition 3 (Approved Land Use) Insert additional condition 3A (Function Centre) Amend condition 92 (Amplified Music) & condition 96 (Hours of Operation)

PAN-318758 MOD 223/0415	19/12/2023	Minor design modifications including adjustments to fenestration, additional doors, upgrade of external wood decking, internal configuration and the addition of solar panels
PAN-206791 MOD 2022/0153	04/05/2023	The amendment to two conditions (28 and 38) relating to the timing of the submission of an Environmental Management Plan and the timing of the implementation of the recommendation of the dangerous goods assessment into the Management Plan for the site.
PAN-318758 MOD 2023/0171	02/08/2023	Minor design modifications including adjustments to fenestration, additional doors, upgrade of external wood decking, internal configuration and the addition of solar panels.

Determination: The development consent is modified as follows:

A. Add Condition 1C – Modification of Consent – Approved plans and supporting Documentation, to read as follows:

1C - Approved Plans and supporting Documentation.

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Modification Approved Plans

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Environmental Noise Impact Assessment Report Number 6953-51.R Rev B	20 August 2024	Day Design Pty Ltd ACN 107 291 494
Addendum Report, Section 4.55 Modification Application – Barrenjoey Boatshed, In-Situ Measurements of Amplified Music, Report Number 6953-5.2L	14 November 2024	Day Design Pty Ltd ACN 107 291 494
Barrenjoey Boatshed Plan of Management	2 December 2024	Barrenjoey Boatshed Pty Ltd ACN 669 506 165

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans

B. Amend Condition 3 Approved Land Use to read as follows:

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the uses identified in

Schedule 1 'Additional Permitted Uses' of the Pittwater Local Environmental Plan 2014, being:

'Business Premises (but only those associated with use of the waterway), charter and tourism boating facilities, kiosks or restaurants or cafes'

A **Restaurant or Cafe** being "a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, takeaway meals and drinks or entertainment are also provided."

As indicated on the approved plans the use of the first floor is restricted to offices, staff amenities and storage. The first floor is not to be used for a restaurant, including ancillary functions.

The premises are not to be used for functions unless ancillary to the approved restaurant use and not as an independent use.

Reason: To ensure compliance with the terms of this consent.

C. Add Condition 3A - Function Centre

3A. Function Centre

Whilst the premises may be used for functions that are ancillary to the approved restaurant use and are not to be an independent use, no approval is granted under this consent for the use of the premises as a function centre, as defined by the Dictionary of the Pittwater Local Environmental Plan 2014:

"function centre means a building or place used for the holding of events, functions, conferences and the like, and includes convention centres, exhibition centres and reception centres, but does not include an entertainment facility."

The premises must not be used for more than two ancillary functions during any one week (Monday to Sunday).

The maximum capacity for any ancillary function is 140 patrons.

During any ancillary function part of the ground floor deck area must be open to the public as a restaurant with capacity for 12 patrons as set out in the "Barrenjoey Boatshed Plan of Management".

D. Amend Condition 92. Amplified Music to read as:

92. Amplified Music

Music and any amplified equipment including microphones are to be restricted to the noise control recommendations set out in the "Addendum Report, Section 4.55 Modification Application – Barrenjoey Boatshed, In-Situ Measurements of Amplified Music, Report Number 6953-5.2L" and managed in accordance with the "Noise Management During Ancillary Functions" requirements set out in the "Barrenjoey Boatshed Plan of Management".

All amplified music is to be operated through an internal house system and an external house system that are each controlled by an RMS (Root Mean Square) noise limiter having separate rms limiters on each individual octave band from 31.5Hz to 8 kHz inclusive.

No additional amplifiers/speakers are permitted on the premises.

Musicians/DJ's are to use Direct Injection (DI) boxes to input the signal into the house system.

Reason: To ensure a suitable acoustic environment and to ensure amplified music and use of microphones does not have a negative impact on surrounding residents.

E. Amend Condition 96. Hours of Operation to read as:

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.