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**Sent:** 1/04/2021 8:26:11 AM  
**Subject:** FW: REV2020/0029 + MOD2021/0047 (DA2019/0123) - Notice of Determination - We Are Beyond Talk Real Action Is Required.  
**Attachments:** MOD2020\_0175\_NOD~5Aug20.pdf;

**From:** Teamjest Pty Ltd <[teamjest@bigpond.com](mailto:teamjest@bigpond.com)>  
**Sent:** Friday, 19 March 2021 5:51 PM  
**To:** Thomas Prosser <[Thomas.Prosser@northernbeaches.nsw.gov.au](mailto:Thomas.Prosser@northernbeaches.nsw.gov.au)>  
**Cc:** [pittwater@parliament.nsw.gov.au](mailto:pittwater@parliament.nsw.gov.au); Michael Regan <[Michael.Regan@northernbeaches.nsw.gov.au](mailto:Michael.Regan@northernbeaches.nsw.gov.au)>; Liz Reeves <[Liz.Reeves@northernbeaches.nsw.gov.au](mailto:Liz.Reeves@northernbeaches.nsw.gov.au)>; Peter Robinson <[Peter.Robinson@northernbeaches.nsw.gov.au](mailto:Peter.Robinson@northernbeaches.nsw.gov.au)>; Lashta Haidari <[Lashta.Haidari@northernbeaches.nsw.gov.au](mailto:Lashta.Haidari@northernbeaches.nsw.gov.au)>; Kylie Ferguson <[kylie.ferguson@northernbeaches.nsw.gov.au](mailto:kylie.ferguson@northernbeaches.nsw.gov.au)>; Alex Mctaggart <[alex.mctaggart@northernbeaches.nsw.gov.au](mailto:alex.mctaggart@northernbeaches.nsw.gov.au)>; Ian White <[Ian.White@northernbeaches.nsw.gov.au](mailto:Ian.White@northernbeaches.nsw.gov.au)>  
**Subject:** RE: REV2020/0029 + MOD2021/0047 (DA2019/0123) - Notice of Determination - We Are Beyond Talk Real Action Is Required.  
**Importance:** High

Hello Thomas,

**NOT GOOD** enough, both **REV2020/0029** (submitted 17/12/20) and **MOD2021/0047** (submitted 24/02/21) it would now appear were WRONGFULLY allowed to be lodged by Council and **NOTHING** has been done with either of them.

According to Environmental Planning & Assessment Regulation 2000 – “An application for review under Section 8.3 of the Act is to be made no later than 28 days after the date on which the modification of the development consent was determined”.

In the case of **REV2020/0029** – the **Notification Of Determination** for **MOD2020/0175** (refer attached) was published on **5 August 2020** – many months before **REV2020/0029** was accepted by Council.

In the case of **MOD2021/0047** – on page **3** within the **MOD2020/0175** Notification of Determination, modified **Condition 10** is crystal clear that ‘... by no later than **16 months** after the date of commencement of the operation of the market on site ...’.

In my **14 March** submission I highlighted that in accordance with Condition 10, the final date for a legitimate **MOD2021/0047** Application was 31 December 2020 (not 24/02/21), as the ‘trial’ market commenced operation on site on **1 September 2019**.

To conclude, as I said in my 10 March email (below) and I sensed in your ‘surprise’ call this afternoon, if you are swamped with work, then perhaps this important task should be done on a ‘Best Practice’ basis by someone else.

Kind Regards,

**Dr Peter McDonald**  
Apt 10, 6 Foley Street  
Mona Vale NSW 2103  
m: +61 414 452 231

5 August 2020

Organic Food Markets  
3 / 1741 - 1745 Pittwater Road  
MONA VALE NSW 2103

Dear Sir/Madam

**Application Number:** Mod2020/0175  
**Address:** Lot 27 DP 5055 , 22 Jubilee Avenue, WARRIEWOOD NSW 2102  
Lot 51 DP 1237461 , 84 Mona Vale Road, MONA VALE NSW 2103  
Lot 52 DP 1237461 , 80 - 82 Mona Vale Road, MONA VALE NSW 2103  
**Proposed Development:** Modification of Development Consent DA2019/0123 granted for use of part of the carparking area associated with the Pittwater RSL Club for the purposes of an organic food market

Please find attached the Notice of Determination for the above mentioned Application.

Please be advised that a copy of the Assessment Report associated with the application is available on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)

Please read your Notice of Determination carefully and the assessment report in the first instance.

If you have any further questions regarding this matter please contact the undersigned on 1300 434 434 or via email quoting the application number, address and description of works to [council@northernbeaches.nsw.gov.au](mailto:council@northernbeaches.nsw.gov.au)

Regards,



Rodney Piggott  
**Manager Development Assessments**

## NOTICE OF DETERMINATION

<b>Application Number:</b>	Mod2020/0175
<b>Determination Type:</b>	Modification of Development Consent

### APPLICATION DETAILS

<b>Applicant:</b>	Organic Food Markets
<b>Land to be developed (Address):</b>	Lot 27 DP 5055 , 22 Jubilee Avenue WARRIEWOOD NSW 2102 Lot 51 DP 1237461 , 84 Mona Vale Road MONA VALE NSW 2103 Lot 52 DP 1237461 , 80 - 82 Mona Vale Road MONA VALE NSW 2103
<b>Proposed Development:</b>	Modification of Development Consent DA2019/0123 granted for use of part of the carparking area associated with the Pittwater RSL Club for the purposes of an organic food market

### DETERMINATION - APPROVED

<b>Made on (Date)</b>	29/07/2020
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The request to modify the above-mentioned Development Consent has been approved as follows:

#### **A. Add Condition No.1A - Modification of Consent - Approved Plans and supporting Documentation to read as follows:**

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

##### a) Modification Approved Reports

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Operational Management Plan	June 2020	M A Choularton
Noise Emission Compliance Report	28 May 2020	Rodney Stevens Acoustics

##### b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

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

#### **B. Modify Condition 4 Amendment to Plan of Management to read as follows:**

The submitted Operational Management Plan is to be amended to include:

- Hours of Operation, being:
  - Access for stall traders: 7:30am-2:30pm; and
  - Trading hours: 8:30am-1:00pm.
- Methods for restricting access to the site prior to 7.30am and in relation to trading hours;
- Complaints Register: A complaints register is to be kept up to date at all times, logging complaints received, and action taken;
- Complaints Contact: A contact person is to be nominated in the Operational Management Plan along with a phone number;
- Stall Numbers: Market events are not to exceed 100 stalls at any time; and
- Market events must not exceed 42 days in 12 months.

Reason: To ensure appropriate amenity, complaints resolution and consistency with the consent.

**C. Modify Condition 6 Noise Minimisation to read as follows:**

1. External sound amplification equipment or loud speakers must not be used for the announcement, broadcast, playing of music (including live music) or similar purposes if audible from the boundary of any residential premises.
2. Set up of stalls is not to commence before 7:30am.
3. Refrigeration motors/generators and the like not being audible from the boundary of any residential premises.

Reason: To protect the acoustic amenity of neighbouring properties.

**D. Modify Condition 7 Hours of Operation to read as follows:**

The hours of operation are to be restricted to:

- Sundays:
  - Set Up: 7:30am-8:30am
  - Trading: 8:30am to 1:00pm
  - Pack Down: 1:00pm-2:30pm

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 for the purpose of the markets shall be required to leave. Stallholders and site managers may commence set up from 7:30am and must vacate the site by 2:30pm. No access to the site for the purpose of market stall set up is permitted before 7:30am.

Reason: Information to ensure that amenity of the surrounding locality is maintained. At the public meeting, the applicant indicated that approval was only being sought to operate the market on Sundays.

**E. Modify Condition 10 Trial Period to read as follows:**

This consent expires in 21 months from the date of commencement of operation of the market on site unless, by no later than 16 months after the date of commencement, the applicant lodges a modification application to extend the expiry date to 5 years and Council thereafter approves the modification.

Reason: To monitor the operation of the consent to ensure no adverse impact on any adjoining land or the amenity of the neighbourhood and the temporary use of the land in accordance with the consent.

**F. Add Condition 11 Operation to read as follows:**

Operation of the markets is to be in accordance with the approved Operational Management Plan and

Noise Emissions Compliance Report.

Reason: To ensure operation of the markets does not result in unreasonable impacts to the amenity of surrounding residential properties.

**G. Add Condition 12 Traffic Warden(s) to read as follows:**

A suitably qualified traffic warden(s), under the requirements of SafeWork NSW, must be appointed to monitor and control traffic movements and car parking along Warriewood Road, Vineyard Street, Jubilee Avenue and Foley Street, Warriewood. Such warden(s) shall commence duties no later than 7.15am through to 2.45pm.

Reason: To ensure safe and orderly traffic movements and parking and to manage amenity impacts to local residents.

**Important Information**

This letter should therefore be read in conjunction with DA2019/0123 dated 19 June 2019.

Please note that on site works cannot proceed unless a Construction Certificate application for the modified proposal has been lodged with and approved by Council or an accredited certifier, and relevant conditions of the Development Application have been carried out.

**Right to Review by the Council**

You may request Council to review this determination of the application under Division 8.2 of the Environmental Planning & Assessment Act 1979. Any Division 8.2 Review of Determination application should be submitted to Council within 3 months of this determination, to enable the assessment and determination of the application within the 6 month timeframe.

**Right of Appeal**

Section 8.10 of the Environmental Planning and Assessment Act confers on an applicant who is not satisfied with the determination of the Consent Authority a right of appeal to the Land and Environment Court within 6 months of determination.

*NOTE: A fee will apply for any request to review the determination.*

**Signed**                    On behalf of the Consent Authority



Name                        Rodney Piggott, Manager Development Assessments

Date                         29/07/2020