
Sent: 19/03/2021 3:32:09 PM
Subject: Pasadena CPCP Submission: re Mod2021/0005.
Attachments: CPCP Mod 2021.0005 submission 19.3.21.pdf;

Dear Anne -Marie

Attached is a submission for Application Number: Mod2021/0005. Pasadena, 1858 Pittwater Road, Church Point.

Kind Regards
Chris Drummer
President
Church Point Community Projects (CPCP)

CHURCH POINT COMMUNITY PROJECTS INCORPORATED

19th March 2021

Northern Beaches Council
Attn Anne-Marie Young



RE Mod 2021/0005 - Alteration to The Pasadena, 1858 Pittwater Road, Church Point

Dear Ms Young,

Church Point Community Projects Inc (CPCP) is a unique, cross-representational community group whose membership includes both on and offshore residents. CPCP's committee members reside at Church Point, Bayview, Scotland Island and the Western foreshore.

CPCP objects to this application on several grounds:

1) Proposal inconsistent with quality of the historic and natural settings

This proposal will have a significant impact on the character of the shared public space of Thomas Stevens Reserve. This area is a special community space worthy of sensitive controls and planning.

2) Parking

The key issues of contention at Church point are Parking and Noise. This proposal involves an intensification of use. It will attract additional patrons exacerbating parking stresses. There is significant inadequacy in terms of the on-site provision of parking to cater for the additional parking demand it will create. In an area where parking is already clearly a problem this impact is totally unacceptable. Controls need to be placed on any instrument on these premises (discussed further below).

3) Existing Use rights

This is a Modification, with respect to purported Development Consent A212/63. CPCP contends that any purported 1963 existing use rights on this property were abandoned. The 2018 Litigation, CPCP Vs Altius left the issue unresolved. CPCP has Senior Counsel's (SC) advice in support of its position. In rejecting the 2016 DA Council/Panel agreed that there were no existing use rights.

<https://eservices.northernbeaches.nsw.gov.au/ePlanning/live/Common/Output/LoadAppPropDoc.ashx?id=f1OZ1BzjNYk%253d>

CPCP thus does not wish any Mod to give any support, or endorsement of any purported existing instrument with respect to the property.

4) Seating and Patron numbers

CPCP wishes that NBC ensures via any instrument that the current limit of 138 patrons is maintained. As it is, the current occupancy limits exceed the onsite parking provided and thus patron limits must not be increased.

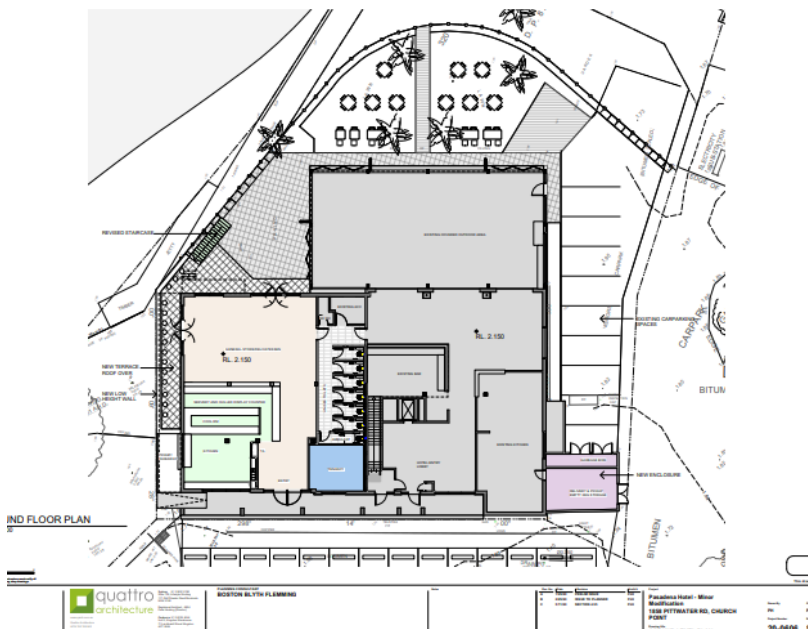
5) Liquor Licencing Issues- 'Alcohol Corridor'

The Pasadena has a 'restaurant' liquor licence permitting the sale of alcohol to seated patrons who have acquired food Liq Lic No. LIQU600462049 . The outline of the licenced area is below.

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Pasadena Licenced area (above)



Proposed modifications (above)

The proposed new takeaway area is not in a licenced area, but links with a licenced area of the Pasadena. The proposal on the western side of the Pasadena includes introducing seating, introducing a 'corridor' by building a low wall and demolishing the existing fire escape stairs. CPCP contends this has the potential to create a 'corridor' or 'rum run' between the licenced area of the Pasadena and the non-licenced area.

This will make it extremely difficult to control and enforce the licence conditions on the property. CPCP contends it is likely patrons will bring alcohol from the licenced area to the non-licenced take away food corridor. CPCP requests NBC seeks advice from Northern Beaches Area Command, Liquor and Gaming and Liquor Licencing on this issue.

6) Liquor Licencing issues -specifically Noise

The applicant seeks to open the western wall for an opening to a new takeaway area. This will permit sound from the licenced area to emanate from the western side of the Pasadena at this new opening. With COVID restrictions being lifted recently for weddings and other events, the Pasadena has been holding 1-4 weddings, or events per week. Amplified music has played causing disturbance to neighbours and we contend in breach of its LA 10 licence noise controls.

When considering this Mod, CPCP wishes for NBC to seek advice from Northern Beaches Area Command, Liquor and Gaming and Liquor licencing with respect to any recent licencing breaches, or noise complaints

7) Non-Compliance

A fundamental issue which needs to be resolved before any Mod can be considered is that with the Pasadena there do not appear to be clear and agreed controls with respect to the Pasadena's council instruments re parking, noise and patron controls etc. With respect to the Pasadena, there appear to be no NBC noise, parking, capacity, or other controls normally listed in a Council instrument, such as a DA or Plan of Management. Numerous attempts and even non-binding offers have been made to do so. However, we contend there continues to be non-compliance of current loose controls.

Specifically-

- **A recent S81 Disturbance Decision for the Pasadena** was released in November 2019 by the Director Compliance Operations Liquor and Gaming, NSW.
https://www.liquorandgaming.nsw.gov.au/_data/assets/pdf_file/0007/862603/decision-pasadena-sydney.pdf
 - Recommendations of that report by police and the Director we contend have not all been followed. Excerpt below
36. Police submit they have made the below recommendations to the venue when hosting functions/weddings:
- (a) All patrons must be removed from outdoor areas of the venue by 10:00pm.
 - (b) No amplified music is to be played in the outdoor area except via an internal sound system which must be controlled by a noise limiter. Access to the limiter must be restricted to the licensee or manager.
 - (c) All doors to the outdoor area must be closed by 10:00pm.
 - (d) No alcohol or drink containers are to be taken from the "licensed area/roped outdoor area".
37. Police have outlined two further recommendations relating to functions held at the venue with over 50 patrons. These recommendations include:
- (a) Suitable transport arrangements must be made by the venue operator to ensure a bus/shuttle service is available to run to Mona Vale, or other suitable transport hubs be made available to reduce the impact of patron noise and disturbance.
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- (b) Suitable security should also be employed to ensure that patrons leaving functions are managed in terms of their behaviour and do not disturb the local community and residents.

➤ Report recommendation and concerns-not complied with eg noise limiter
Excerpt of report below

entertainment and patron noise. Furthermore, I strongly recommend the venue engage a qualified acoustic engineer to conduct noise testing based on the current operation of the venue and install a noise limiter to ensure compliance with the venue's LA10 condition. While it appears venue management have sourced advice and assistance from a sound technician and have invested in a mobile device and sound level meter to monitor noise levels inside and around the boundary of the venue, there is no evidence before me to demonstrate that this ensures compliance with the LA10 condition and in my opinion is not a long-term solution.

- Undertakings in the report by the applicant have not been complied with eg agreeing not to play amplified music outside on Sundays. Sunday 7th March 2021 event as shown on Social media.



- Altius' own Acoustic reports by the Acoustic Group in 2016 have suggested changes, which have not been carried out.
<https://eservices.northernbeaches.nsw.gov.au/ePlanning/live/Common/Output/LoadAppPropDoc.ashx?id=MClwKIEmrYQ%253d>
- Altius' own Town Planner in 2016 -proposed restrictions and conditions on the property re parking and noise
<https://eservices.northernbeaches.nsw.gov.au/ePlanning/live/Common/Output/LoadAppPropDoc.ashx?id=xlhxiZ07TOA%253d>

The applicant and owner are acutely aware that there is a high demand for car parking at Church Point with the success of the Pasadena relying on the ability to get patrons to and from the site without reliance on public parking facilities, particularly on weeknights and over the weekend.

In this regard, on page 14 of the Council Assessment Report, the Development Engineer (Traffic and Parking) recommended that any approval of the development require the following to address the parking shortfall on weeknights and all day on weekends:

- The operation of a shuttle bus on weeknights and all day on weekends to transport customers between the development and public carparks not at Church Point. The shuttle bus to set down customers as the adjacent bus stop and not to occupy any parking space nor block and traffic.

8) A permanent solution for Church Point- Plan of Management

Before any Mod, or other application can be considered and resolved, CPCP submits that a **permanent** solution to the issues at Church Point is for Council and the Pasadena via an instrument to **clearly define, then enshrine and enforce an agreed Plan of Management** covering patron numbers, parking, noise, security, signage, litter, staff training, patron behaviour, etc.

Altius in fact drafted such a document in 2016.

<https://eservices.northernbeaches.nsw.gov.au/ePlanning/live/Common/Output/LoadAppPropDoc.ashx?id=qf7loR4QmPo%253d>

9) Summary

The failure to have enshrined and enforceable controls on this applicant property has meant significant time has been wasted by police, Liquor and Gaming, Licencing, NBC and the community in attempting to resolve these endless issues. Before any Mod can be considered a clear and enforceable solution is required.

Chris Drummer
President
Church Point Community Project (Inc) CPCP