
Sent: 26/05/2022 3:21:04 PM
Subject: Objection to DA2022/0662 1/63-67 The Corso Manly
Attachments: Objection to Hard Rock Live Manly.pdf;

Dear General Manager,

We attach a submission of objection in relation to the above application.

Regards,

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Our Ref: DM:2022102

Your Ref:

26 May 2022

The General Manager
Northern Beaches Council
1 Belgrave Street
MANLY NSW 2095

**Objection to Development Application DA2022/0662 Use – Change of use to a pub and live entertainment venue, building works and signage
Address: 1/63-67 The Corso Manly**

We act on instructions from Iris Ivanhoe Property Pty Limited, which is the registered proprietor of retail, commercial and residential premises located at 19-23 The Corso Manly and 25 to 27 The Corso Manly. Our client is a landlord to a number of retail and commercial tenants, operating businesses and residential tenancies living in close proximity to the site of the proposed development. Our client is concerned about the likely adverse impacts that the proposed development will have on its commercial and retail tenants, including a retail tenant which operates a long standing hotel business – the Ivanhoe Hotel, a toy shop frequented by children and families, as well as its residential tenants. The impacts on our client's tenants will likely result in negative impacts on our client's commercial interests if residential tenants find their premises less attractive as a result of the development, and the retail and commercial tenants are adversely impacted, including financially such that their premises are less attractive.

The application proposes development in the form of a pub. It is noted that an earlier application DA2022/0275 seeking consent for "Alterations and additions to commercial development – use of Premises as a restaurant and signage" was lodged on 7 March 2022 and subsequently withdrawn. The applicant apparently initially sought consent for a lower impact type of premises – a restaurant, and subsequently changed its position so as to seek consent for a high impact premises – being a pub.

Section 4.15 of the Environmental Planning and Assessment Act 1979 requires the consent authority to take into account a number of matters for consideration when evaluating a development application, including:

1. The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality - s4.15(1)(b);
2. Any submissions made – s4.15(1)(d); and,
3. Public interest – s4.15(1)(e).

Likely Social and Economic Impacts of the Development in the Manly Locality

Our client objects to the application on the basis that approval of it will not only have a direct adverse impact upon its commercial interests, but that it will also create additional social impacts, which will create additional burdens on our client's hotel tenant and increase the effort required by our client's hotel tenant to manage the late night trading environment and potential risks of alcohol related harm and problem gambling in the community, which our client's hotel tenant already seeks to mitigate with respect to its own operations.

Adverse Economic Impacts

It is clear that the introduction of a new competing pub business will cause a reduction in the market share available to existing established pubs and hospitality venues in the Manly locality, which would be a negative economic impact on those established businesses. This is a particularly relevant consideration given the current disastrous commercial environment within the Northern Beaches LGA, which has over the past 2 years and more been subject to extreme public health restrictions, including extraordinary restrictions during the summer of 2020/2021 which other LGAs were not exposed to, where businesses have been forced to effectively close for months, with little to no financial support and existing venues need an opportunity to recover from significant periods of mandatory closures pursuant to Public Health Orders which seriously impact on the viability of existing hospitality businesses to remain. Granting approval to this application will have the effect of introducing a competing business at a time when the existing businesses need to recover, which will provide an unreasonable and unnecessary impediment to the progress of the recovery of such businesses.

There is simply no commercial need for another pub or club within the suburb of Manly, with the suburb currently at saturation point for venues of this nature. The NSW Liquor and Gaming live data for 2022 indicates a total of 112 licensed premises within the suburb of Manly, including 5 hotels and 4 registered clubs which are authorised to permit the sale of liquor by retail for consumption on and away from the premises, as well as gaming facilities on premises. Further, there are 2 small bars, 1 general bar and 41 on-premises licensed venues with primary service authorisations, all of which permit consumption of alcohol without any other primary business type. This is based on a population of 15,866 people. The needs of the population are adequately met by the existing licensed pubs, clubs and other high impact alcohol venues.

Adverse Social Impact

The development proposed is a high impact use with strong potential for adverse social impacts as a result of its operation in terms of noise and amenity disturbance,

alcohol related harms, adverse health outcomes, undue strain on health resources, including emergency hospital facilities, violence, vandalism, crime and problem gambling. A venue of over 479m² with multiple bars accommodating over 500 patrons that trades until 3.00am the following day can only be described as a high impact development.

It is noted that the applicant seeks to obtain a hotel licence, which would authorise not only the consumption of alcohol on the premises and away from the premises (by way of retail packaged liquor sales), but also the operation of gaming machines, and the opportunity to offer other gambling services such as TAB wagering and KENO.

The following propositions are applicable to the current application as discerned by the relevant available literature with respect to research as to social impacts of licensed premises on local communities

1. High levels of outlet-density have been shown to be positively associated with higher levels of alcohol-related harm (Campbell, 2009).ⁱ
2. High levels of packaged liquor outlet-density have been shown to be positively associated with higher rates of alcohol-attributable morbidity and mortality (Richardson, 2015).ⁱⁱ
3. Socio-economically disadvantaged communities are at greater risk of alcohol-attributable chronic disease or accident or injury (NSW Chief Health Officer, 2016).ⁱⁱⁱ
4. High levels of packaged liquor outlet-density have been shown to be positively associated with higher rates of alcohol-related DV assault (Donnelly, Menendez & Mahoney, 2014).^{iv}
5. High levels of hotel outlet-density, and highly concentrated clusters of hotels in an area, have been shown to be positively associated with higher rates of alcohol-related non-DV assault (Livingston M, 2008).^v

The NSW Bureau of Crime Statistics and Research (BOCSAR) in its 2015 paper: *"The effect of liquor licence concentrations in local areas on rates of assault in New South Wales"*^{vi} noted:

"...regulatory authorities should be concerned about increases in liquor outlet-density. In particular, increases in the density of hotels above two per 1,000 residents are of greater concern than increases in the density of premises with other types of liquor licences."

These risks and impacts are magnified during periods of late night trading, in particular trading beyond 12.00am, as is proposed by the applicant in this case.

There is already a cluster of 4 large impact full service gaming hotels over a strip of approximately 200m along The Corso and extending marginally down North Steyne and South Steyne, and the applicant seeks to obtain approval of a fourth large impact full service hotel (potentially with gaming) squarely in the middle of this existing cluster and immediately adjoining one of these existing large format hotels.

Within a 150m radius of the proposed site, there are the 3 existing large impact full service gaming pubs along the Forest Road cluster as well as 2 extremely large registered clubs.

There is clearly an issue of density and clustering that is raised by the proposed development which cannot be ignored. The literature suggests that increased density and clustering of hotel premises results in serious negative social impacts. The applicant has not adequately addressed the social impacts of the development in the context of the increased density and clustering of large scale, high impact licensed premises in the Manly locality.

According to the NSW Crime Tool published by BOCSAR for the period January 2021 to December 2021, the proposed site is within an existing high density hot spot for domestic assault, non-domestic assault, robbery and malicious damage to property. These offences are all typically associated with alcohol consumption by either perpetrators or victims. Allowing an additional large scale high risk licensed premises into an existing crime hotspot is likely to exacerbate existing negative social impacts.

One of the legitimately held concerns of our client is that the addition of a further high impact licensed premises with a large footprint and patron capacity trading until the early hours of the morning will add to existing challenges for its tenant, and other established operators in dealing with alcohol and problem gambling related risks, which those parties will be required to manage, and the cumulative impact of the additional premises could reflect negatively on the perceived impacts of the operation of our client's tenant, in circumstances where it would have very limited if any control over patrons of the applicant causing adverse impacts to the locality.

The cumulative impacts also exacerbate the problem of patron migration, particularly late at night with numerous late trading venues clustered in such close proximity to each other. Our client's tenant would face additional burdens such as dealing with prospective patrons who have pre-loaded with alcohol at the applicant's venue, or who have been evicted from the applicant's venue due to intoxication who could potentially create issues for our client's staff and incidents that would need to be reported. The patron migration impacts brought about by the existing clustering of venues is currently managed by the established venues, but not without substantial effort and diligence, which has taken time to achieve, however the introduction of a new entrant will likely significantly disrupt this equilibrium, with adverse impacts almost certain to follow.

This is particularly relevant considering the nature of the proposed premises which is proposed to be a live music entertainment venue, trading late into the early hours of the morning, and likely to attract a less mature and responsible patron profile more prone to engaging in anti-social behaviour and alcohol related harms.

The Plan of Management in support of the application is extremely basic and falls well short of the standard to be expected for a high impact hotel licensed premises and provides inadequate measures to deal with the likely impacts of the development. The applicant has not proposed any measures over and above (or in some cases not even meeting) mandatory statutory requirements to address and mitigate impacts that would be created by the development. The Plan of Management is extremely vague and non-prescriptive for an operational document and encourages little confidence that the premises will be accountable as to appropriate management practices. Similarly, there is a jarring absence of detail on highly critical issues, such as security numbers and functions. For applications of this nature, a detailed Security

Management Plan prepared by an appropriately licensed security consultant would be expected.

No justification is provided for the intended use of the premises as a hotel, in circumstances where the applicant has previously sought consent for use as a restaurant. It is certainly possible for the proposed business model of food and beverage supply for consumption on the premises with live entertainment to be permissible with a consent for use as a restaurant, such that it is not necessary for a pub consent to be obtained. If the applicant obtained development consent for use as a restaurant, it could obtain an on-premises licence to enable alcohol to be sold ancillary to the core business of a restaurant or entertainment venue. This would present as a much-reduced risk scenario as patrons would have something other than consumption of alcohol as the primary purpose for attending the premises.

Further, it must be recognised that even if the current proponent does not intend to make full use of the potential authorisations available under a hotel licence (including off-premises consumption, gaming machines, TAB and KENO) there would be nothing stopping a successor to the current applicant in doing so once consent is granted. Council should therefore consider the potential future impacts if a change in operations is made.

Further practical issues present with respect to ensuring security with respect to access control, patron observation within the venue and external patrols to ensure that patrons, prospective patrons and patrons who have left the premises do not cause disturbance or anti-social behaviour in the public arena or nearby to other licensed premises within the cluster. It will be necessary at all times to have a security officer stationed in the retail lobby for access control. There would also need to be at least one security officer stationed on level 1 to observe and monitor patron behaviour. Given the substantial size of the premises of over 700m² and the assumed patron capacity of in excess of 300 persons, more than one security officer will likely be required. In fact in order to properly service the venue, one security officer would be required for the access control at the ground floor retail lobby, one would be required to monitor level 1, and a further officer would be required to conduct external patrols and to assist the level 1 officer in the execution of their duties.

Any Submissions Made

The consent authority should take into account this submission when considering the assessment of the application, along with any other submissions made. It is noted that numerous submissions are already displayed on the Council website. Such a high volume of submissions opposing the application gives weight to the argument that the proposed development is not appropriate for the site.

Public Interest

Due to the foregoing reasons, but in particular the significant adverse impacts that approval of this application will have on existing established businesses which have been subject of severe restraints on their economic prosperity during the lockdown periods, and are only now beginning a recovery, it is not in the public interest to grant an application which will impose a new competing business to take direct market

share from those existing businesses when they should be able to attempt to recover from a long period of stagnation brought about not by any acts or omissions of those businesses, but by Public Health Orders that have been imposed on them.

It is also clearly contrary to the public interest to enable the further clustering of high-risk premises where there has been no demonstrated need or community demand for same and there is a clear community sentiment of objection to the proposed development as evidenced by the numerous negative submissions received by Council so far.

Yours faithfully
LAS Lawyers & Consultants

Dion Manca

ⁱ Campbell C A, Hahn R A, Elder R, et. al., 2009, 'The effectiveness of limiting alcohol outlet density as a means of reducing excessive alcohol consumption. and alcohol consumption and alcohol-related harms', American Journal of Preventative Medicine, Vol. 37, No. 6.

ⁱⁱ Richardson, E. A, et. al., Is local alcohol outlet density related to alcohol-related morbidity and mortality in Scottish cities? Health Place. 2015 May.

ⁱⁱⁱ NSW Health 2016, Trends in alcohol use and health-related harms in NSW – Report of the Chief Health Officer, NSW Health.

^{iv} Donnelly D, Menendez P, Mahoney N, BOCSAR, "The effect of liquor licence concentrations in local areas on rates of assault in New South Wales", Crime and Justice Bulletin, no. 181, December 2015.

^v Livingston M, 'Alcohol outlet density and assault: a spatial analysis', Addiction, 2008 April.

^{vi} Donnelly D, Menendez P, Mahoney N, BOCSAR, "The effect of liquor licence concentrations in local areas on rates of assault in New South Wales", Crime and Justice Bulletin, no. 181, December 2015.