



Memo

Development Assessment

To: Northern Beaches Local Planning Panel
Cc: Peter Robinson, Executive Manager Development Assessment
From: Nick Keeler, Planner
Date: 17 May 2022
Subject: Item 4.3 – Mod2022/0007 – 1031 Barrenjoey Road, Palm Beach
Record Number: 2022/295424

Dear Panel,

The purpose of this supplementary memo is to respond to the submission received after the publishing of the assessment report in the panel agenda.

Response to submission – Tate

I'm writing again to completely [object] to any modification to the DA2021/1311 Coast cafe. The whole site is completely illegal and is now impacting on all surrounding residents and [their] home life. The deck and roof [need] to be removed as soon as possible and planting done immediately and installation of the acoustic screens is paramount to help us all get back to some normality in our own homes. A tree was removed as it was impacting the attached property and [its] foundations and part of that approval was to replant in the existing area and not for more people dine in [an] illegal area.

Objection to the proposed modification is noted. Despite the site being zoned for residential use, the operation of the café is permitted on the site due to existing use rights that apply to the site. The details of the existing use rights were outlined in the assessment report of the original development application.

This application has been recommended for refusal due to the unreasonable impacts to the residential amenity that is expected to occur with the deletion of Conditions 5 and 6. The portion of the unauthorised deck and pergola closest to the adjacent property is required to be removed and acoustic screens installed to lessen the impact of noise from the deck.

A condition of application TA2020/0565 requires the planting of a replacement tree at a suitable location on the property. The property owner is required to comply with this condition, however it is not a matter for consideration under the assessment of this modification application.

Since the tree removal and the illegal area been built the noise level has been heighten a 100% as there is nothing to cushion any sounds coming from this area. My outdoor area in parts is now unusable due to customer and cafe noise as it is now elevated up straight to my property and not to mention the noise from the cafe when it's closed is

also impacting all the neighbours, 3am delivery's 4am bins collection only happened again this weekend.

The impact of the use of the outdoor deck on nearby residences was considered as part of the assessment of the original development application. The provision of a landscaped buffer between the deck and the adjacent property and the installation of acoustic screens along the southeast property boundary aim to mitigate the noise impacts from the café. These provisions and the requirements of Conditions 5 and 6 are considered to reasonably mitigate the amenity impact of the café on nearby residences.

Conditions of the development consent prohibit commercial waste collection and goods deliveries between the hours of 9pm and 6am on any day. Any allegation of non-compliance with conditions of the development consent should be directed to Council's Building Control team for investigation.

I feel by allowing these modifications go ahead [you're] also putting the safety of the adjoining properties and [their] occupants at danger as there is no fire break between them and the cafe as they are now attached due to the illegal structure. So is that illegal [too]?

Council recommends the application be refused due to the unreasonable residential amenity impact that will result from the deletion of Conditions 5 and 6. All structures within 0.9m of the side property boundary must comply with the relevant fire safety requirements which is managed by conditions imposed on the original development consent.

Recommendation

- A.** Note the concerns raised by the objector.
- B.** No change to the agenda assessment report refusal recommendation.