



Dear Carly,

Please find below our submission to the Local Planning Panel for the 4/11/2020 meeting. We can be contacted on 0403023848.

Re; Development Application 2019/1478 Assessment Report

In general the recommendations of the report are supported, in particular measures to minimise noise impact on surrounding dwellings, and on campers opposite, noting in particular music to be inside only, and not allowing stand- up cocktail parties for up to 180 persons.

Also strongly supported are provisions to review conditions at 12 months, and beyond, if there are continuing problems, and the proposed means for reducing any such amenity impacts (Condition 31).

We commend the professionalism of numerous council staff and their assistance with this matter over the last 12 months, and for taking action when required including Site Visits, Noise Abatement Orders and issuing fines. They provided assistance in and out of hours, to minimise noise from unauthorised use of the Reserve for stand-up drinking, parties and recurrent live music earlier in the year.

We also draw the Panel's attention to the historic significance of the building itself, originally McKinnon's Store, and the 6 Norfolk Pines on the Reserve immediately to the south of the present restaurant, planted by Archie McKinnon in 1940-41. These trees are the subject of a pending Local Heritage Application under the PLEP2014, currently with NBC on its list of Late Nominations. (Report to Ordinary Council Meeting, Item 9.7- 27 June 2017, p.131)

Our remaining concerns are;

1. The pergola should not be approved, but rather some form of retractable or removable awning.

Reasons; An awning provides both shade and shelter, is temporary in line with the Council's O.D.A. (Outside Dining Area) Guide, and can easily be removed if/when the O.D.A. lease lapses. Also pergola footings in the root zone of the pines would not be needed, avoiding proposed complex and expensive arborist supervision, and avoiding risk of tree damage.

2. The "post and rail barrier" or "stone railway sleeper fence" surrounding the proposed O.D.A. was erected on the reserve last year without authority, and should be removed.

Reasons; It is unsightly, adds nothing to the proposed use as an O.D.A., impedes public access to public land, makes the O.D.A. look like private land, and is permanent. All these points conflict with Council's O.D.A. Guide.

Also it would be retrospective approval of unauthorised construction.

3. Condition 27 provides "if/when the lease ends...embellishments need to be removed...".

This is supported, but as it stands, if this D.A. is approved and "embellishments" ie the pergola, are erected before a lease, they need never be removed, unless an O.D.A. lease is subsequently signed and then lapses.

A Condition needs to be inserted that an O.D.A. lease over the relevant

area of reserve be established **prior** to full granting of this DA, or commencement of any construction on the reserve, so that Condition 27 has effect.

4. The N.B.C. Outside Dining Guide in regard to recommended hours (7.30am to 10.00pm), should apply as a formal Condition.  
Reason; proximity to residential area and camping ground.

5. Special closing time for N.Y.E. is strongly opposed, particularly in view of the major disturbance this year, of which the Council is aware.  
Reasons; 2.00 a.m. closing was a one-off *fiat* by NSW State Government applying to all such premises, for last N.Y.E. only.  
None of the local restaurants have any such provision, thereby conflicting with the recommendation by Council's Parks, Reserves, Beaches and Foreshores Dept.(at p. 27 of the Assessment Report):  
*"Parks would be supportive of the hours of operation matching or being similar to other restaurant/cafe venues ... round Narrabeen Lagoon."*  
Given this is an existing use within a residential zone, and opposite a major camping area, there is no justification for late closing on N.Y.E., and we ask that it be refused. One off-late closing should not be made permanent, for this one restaurant.

Yours faithfully

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#### ADDENDUM:

We were away from Friday (30/10/20) until Sunday (1/11/20), during which time further unauthorised works occurred on the Reserve:

a) Removal of all the railway sleeper pavers in the area between the two stone paved areas on the Reserve. The builder states that they are to be replaced by stone pavers. Also removed are the sleepers cladding each of the posts, all bench tops, and several of the posts themselves.

b) Excavation in this area exposing large roots close to the base of the Norfolk Pine being 2nd from Narrabeen Park Parade, and severing of at least 3 large roots, the largest some 20cm in diameter. This has been refilled this morning (2/11/20) but several large severed roots still show. The builder states that this was done "in consultation with the council", and that cutting the roots was old and not done by them, despite a 1 m. severed section of root lying on the ground and freshly cut root ends clearly visible. Photos are available to confirm this, if needed.

We contacted Council at 5.45pm, a Ranger attended, who phoned and said photos would be taken. A report should be available to the Panel. This further unauthorised work on the Reserve pre-empts the D.A. decision by the Panel, and contravenes the recommended conditions of the Application Report, namely that the railway sleeper pavers remain in situ (Condition 1a), and that stringent Tree Protection Measures be applied before any works on the Reserve (Condition 17). All such work now potentially circumvents Condition 27- (see Point 3 above).

In view of this extraordinary demonstration of the risk to these historic pines, we ask that no approval be given for any works on the reserve, that the area where the railway sleeper pavers have been removed revert to grass, that no pergola be erected, and that any further works on the Reserve cease forthwith pending: 1) approval of suitable DA conditions, and 2) completion of an O.D.A. lease.

