

17 August 2009



Mr Brian Adams
PO BOX 309
COLLARROY BEACH NSW 2097

Dear Sir/Madam

CA(PDS)

**RE: Property Address: 1060-1066 Pittwater Road Brookvale
Modification of consent DA2002/0212 (2009/0093 Mod 6) granted for a hotel
(Surf Rock Hotel) to allow a continuation of increased patron numbers and
associated hours**

We are writing to advise that the request to modify the above-mentioned Development Consent has been approved on 12 August 2009 and determined as follows:

(1) Amend Condition 22 to read as follows:

22. (a) The maximum patronage of the hotel, exclusive of staff shall not exceed the following:

7.00am to 5.00pm – 150 persons
5.00pm to 10.00pm – 350 persons
10.00pm to Midnight (Monday to Thursday) – 540 persons
10.00pm to 3.00am (Friday and Saturday) – 540 persons
10.00pm to 11.00pm (Sunday) – 540 persons

- (b) The patron numbers detailed in (a) above are for a trial period of twenty-four (24) months concluding on 12 August 2011.
- (c) If the applicant wishes to make the patron numbers referred to (a) above permanent then the applicant must lodge with the Council a S96 application with appropriate supporting documentation on or before 12 April 2011.
- (d) The trial period for patron numbers referred to in (a) above can remain in force until the S96 application is finally determined.
- (e) In the event that no S96 modification application is lodged in accordance with the (c) and (d) above or the S96 application is finally determined by refusal then patron numbers must revert to:

Patron numbers

***7.00am to 11.00pm – 150 persons
11.00pm to 12.00am – 250 persons
12.00am to 3.00am (Friday and Saturday) – 250 persons***



(2) Amendments to (a) of Condition No. 26 and the addition of (e) as follows:

26. Noise Compliance Report

- (a) A Noise Compliance Report commissioned by the applicant and assessing compliance with Conditions 27, 28 and 29 shall be lodged with Council and the applicant by a qualified noise consultant every 3 months, with the initial Noise Compliance Report due by 12 October 2009. The Noise Compliance Report shall be based on the results of inspection and monitoring of noise by the qualified noise consultant at and across Pittwater Road from the hotel conducted without prior notice to the hotel on Friday or Saturday night after 12 midnight. Any noise monitoring or assessment for the reports is to be carried out at times not known to the owner and operator of the hotel.
- (b) The applicant shall lodge a plan prepared by a qualified noise consultant showing where all speakers and other sound equipment facilities are located as part of the initial Noise Compliance Report.
- (c) The sound system settings and the levels are to be as indicated in the letter from Avsound Productions Pty Ltd dated 12 March 2008 (a copy of which is attachment "A" to this consent).
- (d) To ensure that the sound system is not altered, the key shall be kept off the premises.
- (e) In the event that the Noise Compliance Report is found to be non-compliant with the relevant conditions (Nos. 26 – 30) that a copy of the report is to be forwarded to Warringah Council & NSW Police Force (Northern Beaches LAC) by the licensee/owner of the hotel.

Reasons: To ensure that the hotel is operating within the Court Approved Conditions and allow Council to undertake appropriate action(s) if a non-compliance occurs.

(3) Amendments to Condition 38 as follows:

38. Security Plan of Management

- (a) The recommendations and operational procedures contained in the Security Plan of Management (dated 22 February 2008 and redated 14 March 2008) prepared by George Askew, are to be implemented during the trial period in the operation of the hotel. The Security Plan of Management is to include the amendments in accordance with Condition No. 35 (no patrons are to be given entry to the premises from 12 midnight). Additionally the recommendations by the Office of Liquor Gaming and Racing (OLGR) are to be incorporated within in this Security Plan of Management, and updated as any further recommendations from that office are issued. All amendments to date are to be compiled in a single document and a copy is to be forwarded to Warringah Council and NSW Police Force (Northern Beaches LAC) by 24 September 2009.



The Security Plan of Management is to contain the material of the Security Plan of Management of 14 March 2008 and 22 February 2008, the additional recommendations from time to time of the qualified security consultant, and an appendix showing the history of complaints and the history of amendments. This document, with the additions, is to be made available to any new security consultant and to all the hotel's security personnel so that they will understand the history of previous complaints and the reason for the inclusion of the material in the Plan.

- (b) A review of security staffing levels is to be undertaken every 3 months (with the initial report due 12 October 2009 and thereafter every 3 months until 12 August 2011) to determine whether the numbers of security referred to in the Plan of Management should be increased to ensure that the operation of the premises provides for adequate levels of safety adjacent to the premises in the immediate area, to ensure that patrons of the premises do not loiter or linger in the area and do not cause noise or other nuisance in the immediate area including public carparking areas adjacent to the site.
- (c) A Compliance Report commissioned by the applicant assessing the Security Plan of Management by a qualified security consultant shall be lodged with the Council and the applicant every 3 months. Inspections for monitoring and assessment of the Security Plan of Management to be reported to the Council are to be always carried out at times unknown to the owner and the operator of the hotel.
- (d) The Qualified security consultant undertaking the assessment of Compliance is to make recommendations following the assessment and the recommendations are to become part of the Security Plan of Management, and typed up and included in the Security Plan of Management within 14 days receipt of the report, and future assessment will be based on the amended and updated Security Plan of Management from that time onwards..
- (e) Other than for additional matters relating to the Security Plan of Management, this plan can only be amended with consultation and approval by the Council.
- (f) A journal is to be kept of complaints and contacts by residents including dates, times, contact person, incident and resident details. In addition, staff of the hotel shall note in the bar book not only when patrons have been identified to be terminated but any other anti social incidents, and whenever necessary, to call the police. When the qualified security consultant undertakes the assessment every 3 months, that consultant shall be shown a copy of the journal and the bar book and the recommendations from the security consultant will also take into account the matters noted in that documentation.
- (g) There shall be compliance with the Security Plan of Management (as amended) at all times.
- (h) Any amendment of the Security Plan of Management and the reasons for the amendments are to be made available to the members of the public when they attend any regular meetings held with the neighbours of the hotel.

Reason: To ensure the Security Plan of Management is compliant and levels of security are maintained in accordance with the Security Plan of Management.



(4) Amendment to (b) of Condition 82 as follows:

82. Alternative Transportation for Patrons

- (a) The Applicant will ensure that a Maxi Taxi is permanently booked by the hotel and available on call between 1.30am and 3.30am (Saturday and Sunday) for the transport of patrons exiting the venue during these hours on Friday and Saturday nights for the orderly transportation of patrons within a 5km radius of the hotel at no cost to the patrons.
- (b) Before 12 October 2009, the Applicant is to apply to the relevant authorities for the dedication of a temporary taxi stand directly adjoining the premises on Pittwater Road.

Reason: To reduce noise levels within the locality at the time of closing and for the safety of the patrons.

(5) The following new Condition – No.84 - Number of patrons on Ground and First Floor Levels

84. Number of patrons on Ground and First Floor Levels

In the event that the number of patrons within the hotel reaches 490 patrons on the first floor, then all additional patrons up to and including 540 patrons (i.e. 50 patrons) are to remain on the ground floor level of the premises. If patrons on the ground floor level wish to gain entry to the first floor a list or system must be used for those patrons to gain entry to the first floor level. The system will operate on the exit of the patrons on a one in/one out basis.

Reasons: To ensure adequate number of patrons to the first floor level is maintained while the 540 patrons approved under the modified trial period by the NSW LEC and address the concerns raised by NSW Police Force (LAC Northern Beaches).

This letter should therefore be read in conjunction with Development Consent **DA2002/0212** dated **5 June 2003**, Mod 2 dated 3 August 2005, Mod 3 dated 24 October 2006, Mod 5 Land and Environment Court No 11134 of 2007 dated 23 May 2008. Please find attached a consolidated set of conditions incorporating all modifications of consent.

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.

Section 96(6) 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.

Should you require any further information on this matter, please contact **Phil Lane** between the hours of 9.30am and 10.30am or 3.00pm and 4.00pm, Monday to Friday, on telephone number **9942 2111**, or at any time on facsimile number **9971 4522**.

Details of development applications lodged after July 1, 2005 are also available online, to access this facility please visit our DA's Online System at www.warringah.nsw.gov.au.



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Yours faithfully

Phil Lane
**Senior Development Assessment
Planning and Development Services**

