

## Environmental Health Referral Response - industrial use

<b>Application Number:</b>	Mod2023/0056
<b>Proposed Development:</b>	Modification of Development Consent N1044/99 granted for additions to golf clubhouse
<b>Date:</b>	17/05/2023
<b>To:</b>	Dean Pattalis
<b>Land to be developed (Address):</b>	Lot 11 DP 1275411 , 2 Beach Road PALM BEACH NSW 2108

### Reasons for referral

This application seeks consent for large/and or industrial development.

And as such, Council's Environmental Investigations officers are required to consider the likely impacts.

### Officer comments

#### General Comments

The applicant advises:

We refer to Notice of Orders Made by Land and Environment Court, dated 20 March 2020.

Hot House Studio v Northern Beaches Council

Condition D250. Hours of operation and patron numbers for the alfresco area states:

a. The hours of operation for the alfresco area are:

AEDT (Summer) 10am – 8:30pm

AEST (All other times) 10am – 6pm

b. The maximum number of patrons permitted in the alfresco area shall be restricted to 30.

c. The maximum number of patrons permitted in the alfresco area may be increased to 50 patrons on a maximum of 26 occasions per year, with no more than 5 occasions in any calendar month, provided that the Council is notified in writing in advance of those occasions.

The alfresco area includes the downstairs bar, the timber deck area and the sandstone paving area at the front of the Clubhouse.

Condition D251. Trial Period states:

The approved hours of operation and numbers of patrons for the alfresco area are subject to an 18 month trial period commencing from the date of this determination.

If the applicant wishes to make the trial hours and restriction upon patron numbers permanent, a S4.55 modification application (including further acoustic information referred to below) must be lodged to Council following the first 12 months of the trial operation period.

i) Summer background noise level monitoring.

ii) Details demonstrating compliance with noise emission criteria at the nearest residential receiver as set out in Condition D241, or 5dB(A) above the background noise level.

Provided that a S4.55 modification application to maintain the approved trial hours and patron numbers is made between 12-18 months following this modified consent, the premises may continue to operate in accordance with the approved hours and restricted patron numbers until the modification application has been finally determined.

Please refer to the attached Acoustic Report by Noise and Sound Services March 2022, which confirms that the acoustic goals set out above are fully met.

With regards to the time limit noted within the Notice of Orders made, commencing 20 March 2020, we rely upon the NSW Department of Planning's temporary changes to lapsing periods for development consents:

Lapsing periods for development consents and deferred commencement consents were extended to ensure approved projects can start once economic conditions have improved. Consents granted before 25 March 2020 will be extended by two years.

Also:

Noise and Sound Services was contracted to carry out a noise assessment (Report dated March 2022 No.nss23594) which states :

It is concluded that the noise goals set in condition D241 of The Land and Environment Court, 'Notice of Order Made' for case number 2019/00363596, dated 20 March 2020, Appeal No. 18/362596, were fully met during the site visits carried out.

Also - note:

The measurements of real time background sound pressure levels and ambient and background overall A weighted background noise levels were carried out at the site. The background noise measurements were taken between the hours of 12:00 noon on Saturday 12th February 2022 to 12:00 noon on Saturday 19th February 2022 (see Appendix A below for full results). The measurements were taken at a height of approximately 1.5 metres.

The ambient and background noise level results are necessarily a "snapshot" of the noise levels on the particular days of the survey. Noise levels can vary with time due to different weather conditions, traffic flows, pedestrian activity etc. However, during the noise surveys the weather was a mixture of dry and wet (see Appendix C below) with mostly minimal wind. The road traffic and pedestrian activity conditions were thought to be normal. Hence, the ambient and background noise level was considered to be representative of the area.

Environmental Health comment:

What is not clear is if patronage numbers were representative of a typical summer day/s bearing in mind February 2022 had a very high rainfall and rain occurred on Saturdays and Sundays during the assessment period.

Having said that, the applicant has reasonably tried to comply with the intention of the Courts decision. We note no further valid complaints to date and recognise that appropriate ongoing management and control measures on site can provide a satisfactory outcome to meet Councils and the Courts objectives.

Environmental Health therefore supports the proposal to remove the Trial Period Condition D251, provided hours of operation, patron numbers and restrictions of the alfresco area remain unchanged as per Consent N1044/99.

The proposal is therefore supported.

Note: Should you have any concerns with the referral comments above, please discuss these with the Responsible Officer.

### **Recommended Environmental Investigations Conditions:**

## **ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES**

### **Ongoing Noise Management Requirements**

1. Hours of operation, patron numbers and restrictions of the alfresco area are to comply ongoing with Consent N1044/99 including Land and Environment Court Orders 20 March 2020 requirements (with exception of the completed Trial Period Condition D251)
2. The Noise Management Plan shall be undated to include:

- The acoustic review March 2022 reference and ongoing requirements.
- Details on who is responsible for each compliance action and when; being detailed in the plan for organizational accountability ongoing.

A copy of the updated plan shall be submitted to Council for its records.

Reason: To minimise noise disturbance to neighbouring residential receivers