
From: Belinda Aspinall
Sent: 25/11/2024 3:52:40 PM
To: Anne-Marie Young; Council Northernbeaches Mailbox
Subject: TRIMMED: Re: Extension to public submission for DA2024/1362
Attachments: Submission - Jenkins.pdf;

Hi Anne-Marie,

Thank you kindly for the extension for this submission for DA2024/1362.

Please find attached the submission for Ms Anne Jenkins of 31 Myoora Rd, Terrey Hills.

Thanks,
Belinda

From: Anne-Marie Young [REDACTED]
Sent: Friday, 22 November 2024 5:20 PM
To: Belinda Aspinall [REDACTED]
Subject: RE: Extension to public submission for DA2024/1362
Yes, that would be fine.

Anne-Marie Young
Principal Planner

Development Assessment - North Team
t 02 8495 6507 m [REDACTED]
[REDACTED] [nsw.gov.au](mailto:[REDACTED]@nsw.gov.au)
northernbeaches.nsw.gov.au



From: Belinda Aspinall [REDACTED]
Sent: Friday, 22 November 2024 11:57 AM
To: Anne-Marie Young [REDACTED]
Subject: Re: Extension to public submission for DA2024/1362

Hi Anne-Marie,

Would it be possible to extend to date for our submission to the Development Application for 40 Myoora Rd(DA2024/1362) Monday 25 November?

Thanks,
Belinda

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From: Anne-Marie Young <[REDACTED]>
Sent: Monday, November 18, 2024 3:03:43 PM
To: Belinda Aspinall [REDACTED]
Subject: RE: Extension to public submission for DA2024/1362
An extension is granted thanks
Anne-Marie Young
Principal Planner

Development Assessment - North Team
t 02 8495 6507 m 0435 519 965
Anne-Marie.Young@northernbeaches.nsw.gov.au
northernbeaches.nsw.gov.au



From: Belinda Aspinall [REDACTED]
Sent: Monday, 18 November 2024 3:00 PM
To: Anne-Marie Young [REDACTED]
Cc: Anne Jenkins <[REDACTED]>
Subject: Extension to public submission for DA2024/1362

Hi Anne-Marie,

I hope this correspondence finds you well. I am the daughter of the owner of 31 Myoora Rd, Terrey Hills, who I have cc'ed in this email, Anne Jenkins.

I understand the public submissions to the Development Application for 40 Myoora Rd (DA2024/1362) are due today, 18 November 2024.

We kindly ask for an extension on this date to the end of this week, being Friday 22 November.

I look forward to hearing back from yourself with a direction on this request.

Please feel free to give me a call on [REDACTED]

Thanks,
Belinda

Northern Beaches Council

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25 November 2024

Chief Executive Officer
Northern Beaches Council

**SUBMISSION TO DEVELOPMENT APPLICATION DA2024/1362
Impacts at 31 Myoora Road, Terrey Hills from the proposed development at 40
Myoora Road, Terrey Hills**

This submission is made on behalf of my client, Ms Anne Jenkins, who is the property owner of 31 Myoora Road, Terrey Hills. My client has operated the Terrey Hills Swim School on the property for over 25 years.

My client is firmly supportive of the proposed development of the site, subject to addressing the following traffic and noise concerns.

1 Traffic and access concerns

We note the following issues about the proposed development:

- A single vehicle egress is proposed from Myoora Road near the western corner of the site, almost opposite my client's property (figure 1) with no clear right of way for car cross lanes to enter either property;
- No vehicle access is proposed from Mona Vale Road with all access to the property from Myoora Road. My client is supportive of dual access on the development site to relive pressure on the Myoora Rd infrastructure;
- Traffic management on Myrooa Rd is acknowledged as inadequate at present, will have even further congestion from recently approved DA's, and this proposed development. My client believes it would be unreasonable for the development to fund the resolution of this issue alone; and
- The increased traffic congestion will impact public bus operations that rely on Myoora Road.

2 Noise

The use of the property at the scale and intensity proposed relies significantly on operational management provisions being adequate and implemented to reduce the noise impact on surrounding residential properties. My client's concern is that the current operational provisions are not measurable or enforceable by Council and therefore do not adequately reduce noise impact.

Adequacy of noise mitigation measures should be tested and monitored over time [via a reviewable condition; see below recommendations] so as not to compromise the residential and commercial functionality of my client's property at 31 Myoora Road and other surrounding land.

Such measures may include (but are not limited to) adequate and enforceable operational management conditions, review of operating times generally, the appropriateness of patron numbers in certain areas within the site at certain times, and the adequacy and location of sound barriers including the flow of indoor to outdoor areas during events.

3 Reviewable Condition

The DA includes acoustic and traffic modelling that is based on various assumptions which may be inaccurate and which may adversely impact my client's development, local residents and businesses.

We respectfully suggest that any approval should be the subject of a reviewable condition [Section 4.17, (10B) to (10E) of the Act, see Annexure 1]. A reviewable condition may address matters including:

- traffic impacts;
- acoustic impacts from operations, for example, patron numbers within particular areas at certain times; and
- parking generally and overflow during special events.

The Operational Management Plan must include a provision relating to the procedure for updating and changing the Management Plan as established in the planning principle in *Renaldo Plus 3 Pty Limited v Hurstville City Council* [2005] NSWLEC 315, which states;

“ Is there a procedure for updating and changing the Management Plan, including the advertising of any changes?”

It would be appropriate for the operational management plan to incorporate the operational mitigation measures from the assessment reports, for example, from section 8 and 9 of the Acoustic report. The draft plan omits such provisions.

My client is firmly supportive of the proposed development, provided the concerns outlined above are addressed.

Yours sincerely,



Michael Haynes
Director - BBF Town Planners

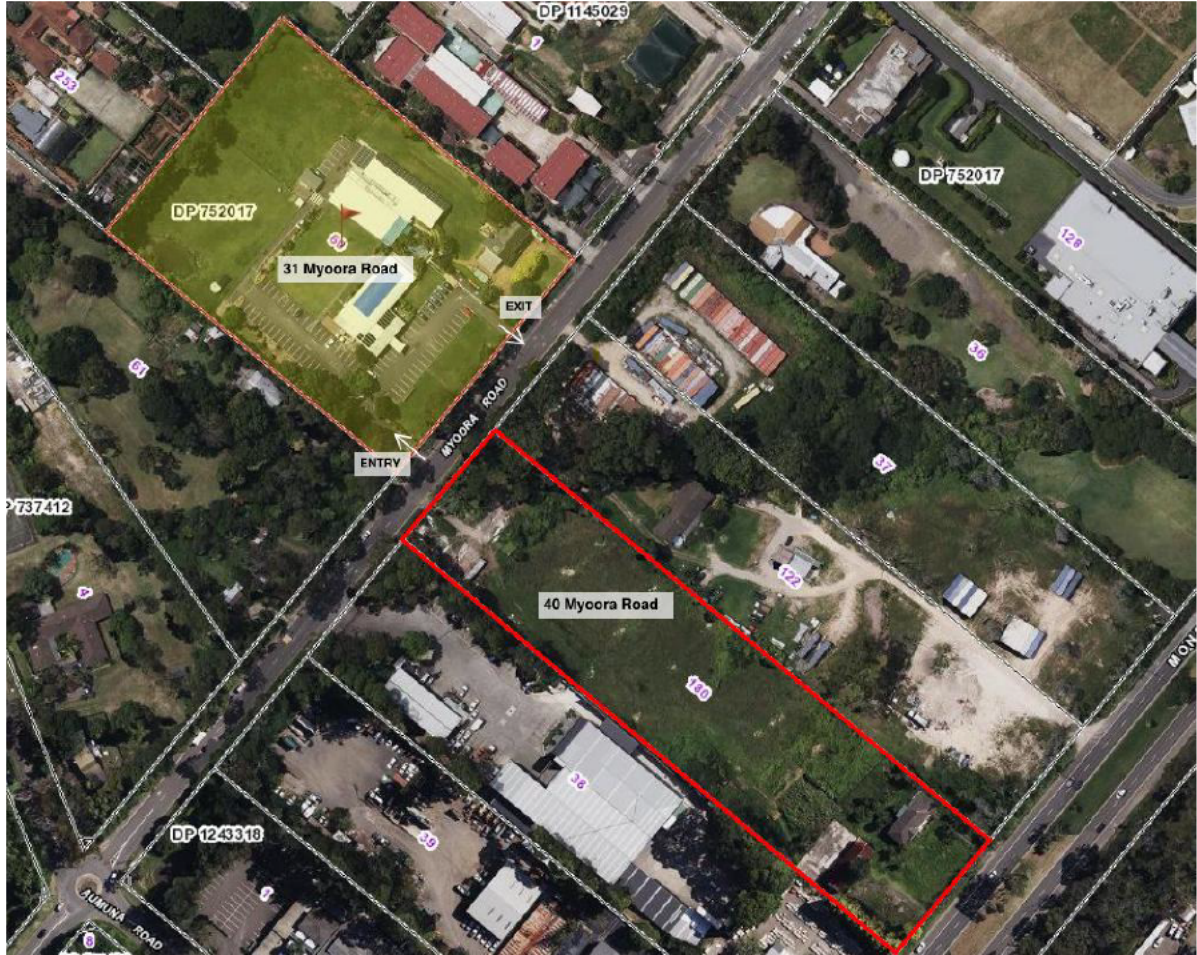


Figure 1 – aerial image of the properties (source of base aerial image: SIX Maps)

Annexure 1 - Reviewable condition

Section 4.17, (10B) to (10E) of the Environmental Planning and Assessment Act, relates to establishing reviewable conditions in relation to, inter-alia, a restaurant or café, entertainment venues, and other similar land uses.

The provisions relate to imposing conditions within a development consent relating to extended hours of operation or patron numbers subject to review.

A reviewable condition would enable the testing and assessment of the actual impacts of the development once operational to ensure that it is operating within appropriate limits.

The operation of such conditions is guided by section 79 of the Regulation. These provisions are repeated below.

*(10B) **Review of extended hours of operation and number of persons permitted** A development consent that is granted subject to a reviewable condition may be granted subject to a further condition that the consent authority may review that condition at any time or at intervals specified by the consent and that the reviewable condition may be changed on any such review.*

(10C) The regulations may make provision for or with respect to the kinds of development that may be subject to a further condition referred to in subsection (10B), the matters that must be included in such a condition and the procedures for a review under such a condition.

(10D) A decision by a consent authority to change a reviewable condition on a review is taken to be a determination of a development consent for the purposes of this Act.

Note—

Accordingly, an application for review or appeal under Part 8 may be made in relation to a decision to change a reviewable condition.

*(10E) For the purposes of subsections (10B)–(10D), a **reviewable condition** means any of the following—*

(a) a condition that permits extended hours of operation (in addition to other specified hours of operation),

(b) a condition that increases the maximum number of persons permitted in a building (in addition to the maximum number otherwise permitted).

*(11) **Prescribed conditions** A development consent is subject to such conditions as may be prescribed by the regulations.*

Note—

Section 6.16(2) provides that a condition of consent has no effect to the extent that it requires a compliance certificate to be obtained in respect of any development.

s 4.17 (previously s 80A): Renumbered 2017 No 60, Sch 4.2 [1]. Am 2016 No 20, Sch 4.1 [3]; 2023 No 7, Sch 2.25; 2023 No 10, Sch 1[2].

Section 79 of the Regulation

79 Review conditions

(1) A development consent that is granted subject to a reviewable condition may, as referred to in the Act, section 4.17(10B), be granted subject to a further condition (a review condition) if the development consent relates to the following kinds of development—

- (a) an entertainment venue,*
- (b) a function centre,*
- (c) a pub,*
- (d) a registered club,*
- (e) a restaurant or cafe.*

(2) A development consent that is subject to a review condition must contain the following—

- (a) a statement that the development consent is subject to the review condition and the purpose of the review condition,*
- (b) a statement that the consent authority will carry out the reviews,*
- (c) when, or at what intervals, the reviews must be carried out.*

(3) The consent authority must give written notice to the operator of a development that is subject to a review condition at least 14 days before carrying out a review.

(4) The consent authority may notify other persons of the review as it considers appropriate.

(5) The consent authority must take into account submissions that are received from any person within 14 days after notice of a review is given to the person.