
Sent: 3/05/2021 12:07:12 PM
Subject: Online Submission

03/05/2021

MR Richard Wallace
11 / 43-45 North Steyne ST
NSW 2095
richardjameswallace@gmail.com

RE: Mod2021/0156 - 75 The Corso MANLY NSW 2095

Objection to Mod 2021/0156
(The Steyne Hotel 75 The Corso Manly)

I am the co-owner of apartment 11 at 43-45 North Steyne Manly. My residence is located on the top storey of the building with about 12 metres (just the width of 42 North Steyne Manly) between my residence and the open-air beer garden of the hotel and the subject deck.

I wish to object to the application for modification of the development consent.

Basis of Objection

The applicant seeks to modify condition ANS 12 "to ensure clarity in relation to the time periods in which the external spaces may be used."

There is no rationale provided as to why the hotel should be given consent to extend the time of its use of the terraces except that such a change would "ensure clarity".

The problem with this stated rationale is that the condition of consent is already entirely clear. The use of all the outside areas must cease by 10.00 pm every day of the week and the Plan of Management must be updated to reflect this condition.

The applicant is, by way of this application, simply admitting that it is presently operating in contravention of its DA consent conditions by not having updated the Plan of Management as it is supposed to do.

It is nonsensical to suggest that the DA should now be modified simply because the applicant has failed to comply with condition ANS 12.

The hotel is required to modify its Plan of Management and it is entirely within its control to do so. There is no logical reason as to why other stakeholders including NSW Police and Liquor and Gaming would object to such a modification being made. It is far easier for the hotel to change the Plan of Management than it is for a new consent condition to be approved so one is left questioning the motives for wanting to actually complicate the existing condition from the simple and extremely clear condition that now exists.

Furthermore, the hotel management knows that a change to the use of the open areas of the hotel will likely cause nuisance to its neighbours. The hotel has received numerous phone calls and letters of complaint from local residents such as myself about its use of these areas of the

hotel.

The Plan of Management should be updated to bring it into line with ANS 12. The DA consent condition should not be altered to reward recalcitrance.

Other works for which approval is sought

Whilst the changes are described as cosmetic, there are significant changes proposed including an increase in size of the deck area. Clearly this increases the capacity of the deck even if the overall number of people within the hotel is maintained at the current level.

I object to any increase in the capacity of the open-air areas of the hotel.

History

The application for changes to the decks and terraces needs to be put in context. The hotel's operations are subject to various DA consent conditions aimed at achieving a balance between the rights of the hotel to conduct its business and the rights of local residents to the quiet enjoyment of their property. In particular, I refer to ANS 01, ANS 05, ANS 06, ANS 07 and ANS 12 which are reproduced below for ease of reference.

Acoustic panels were installed in the beer garden area in accordance with condition ANS 01 and, as a neighbour, I was satisfied with the balance that had been achieved. During works associated with DA 2018/2023, the present management of the hotel removed these panels. This was done without development consent and despite their Statement of Environmental Effects stating that no changes would be made to the licensed areas of the hotel.

Since their removal, neighbouring properties have been subjected to extreme noise nuisance from the premises.

The hotel also has a DA consent condition arising out of DA 2011/91 requiring that its Plan of Management be amended. Condition ANS 07 requires the Plan of Management to have a separate section to control the use of the beer garden.

The condition states that the use of the beer garden must be in accordance with the report of the Acoustics Group and ANS 01. The report requires that all music within the beer garden be played through specially positioned speakers that are attenuated to ensure compliance with ANS 05.

The previous management of the hotel operated in accordance with this report and, as a near neighbour, I was satisfied with the way in which the hotel operated.

The hotel changed hands in 2019 and the new management of the hotel submitted a development application (DA 2018/2023). The Statement of Environmental Effects accompanying this DA states that no changes would be made to the licensed areas.

In fact, when work was carried out, radical changes were made to the beer garden area. The most important change was the removal of all the acoustic panels that were installed in accordance with ANS 01.

In short, the practice is simply now to treat the open-air beer garden as if it was the same as any of the enclosed rooms in the hotel.

In numerous meetings with and also within various letters of complaint to the present management, I have pointed out DA consent condition ANS 07 and requested that the Plan of Management be updated in accordance with its obligations under ANS 05. Over a period of some 18 months, I have also requested re-instatement of the acoustic panels.

Despite various assurances that the acoustics would be reinstated, no progress has been made in doing so. Now the management seeks to further deteriorate conditions for its neighbours.

It is clear that without the acoustic treatment mandated by ANS01, approval of the current application will exacerbate an already bad situation.

Local residents, including myself, have been extremely affected by these changes and I object to any further deterioration in our amenity by way of stealth that this application represents.

Relevant existing conditions of consent

ANS01

The acoustic external panels to the roof and walls are to be contained within the envelope of the existing building and extend a maximum 2.0 m vertical and 0.5 m angle as per the submitted acoustic report by The Acoustic Group dated 9th March 2011 received by Council on 15th April 2011.

ANS05

The ongoing management of the premises must be in full accordance with the Protection of the environment Operations Act, 1997. Including but not limited to:

- Noise arising from patrons must not be audible within any habitable room of any neighbouring residential premises at any time (my emphasis)
- Noise arising from music, live entertainment or other such amplified sound must not be audible within any habitable of any neighbouring residential premises at any time (my emphasis)

ANS 07

A Plan of Management, as approved by Council, must provide a section dedicated to the ongoing management and operation of the outdoor beer garden area. The Plan of Management is to be submitted to Council prior to the issue of the Occupation Certificate.

Further modification

The development consent was modified on 16 February 2017. Again local residents were consulted and Council imposed conditions ANS 06 and ANS 12 - conditions that the new owners now seek to amend.

These conditions state:

ANS 06

The outdoor terrace is to be closed to patrons from 10.00 pm to 8.00 am Monday to Sunday.

ANS 12

The approved "Plan of Management of Security and Operation of the Hotel Steyne, Manly" dated March 13 submitted to The Council on 21 March 2013 is to be updated to included (sic) reference to the approved works and ensure that the use of decks and terraces are to cease prior to 10.00 pm on all days.