

## Environmental Health Referral Response - industrial use

<b>Application Number:</b>	DA2023/0782
<b>Proposed Development:</b>	Alterations and additions to existing restaurant and increase in hours of operation
<b>Date:</b>	12/07/2023
<b>To:</b>	Kye Miles
<b>Land to be developed (Address):</b>	Lot 21 DP 226287 , 20 Albert Street FRESHWATER NSW 2096

### 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

This proposal is basically the previous Council refused DA with a change to the roofing system to improve acoustics.

The applicant advises:

The proposal was refused by the Development Determination Panel of Northern Beaches Council on 7 December, 2022 with the following Reasons for Refusal listed;

1. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest, as the proposal will result in significant adverse noise impacts on adjoining and nearby residential properties.
2. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause D3 Noise of the Warringah Development Control Plan, as the proposal will result in significant adverse noise impacts on the amenity of adjoining and nearby residential properties, as the mitigation measures to which the proposals acceptable noise environ relies is not supported by detailed construction information and specification.

and also includes comments:

Environmental Health Referral Response - industrial use date 31 August, 2022: I note that this referral specifically assessed the potential acoustic impact and hours of operation and supported the DA;

With the minor works proposed and the business in operation we are not aware if an OC will be required therefore our conditions relate to "operations".

At this time we are not aware of any complaints or objections.

A residential receiver is located immediately next door.

The updating of Plan of Management is critical to avoiding a nuisance.

The acoustic assessment is very detailed and prescriptive and compliance ongoing essential.

Subject to conditions Environmental Health supports the proposal.

The proposal is therefore supported.

Additionally the SEE now for this proposal states:

The proposed outdoor seating area incorporates a fixed shut awning that will be constructed of a Polycarbonate roofing system, specifically Danpal Seamless Roof System with Danpalon Multicell Panels, which has a documented acoustic rating of Rw (C,Ctr) 26(0,-3).

Features of the proposed development include the following: -

- Removal of the existing 2 onsite parking spaces to provide an additional 35m2 covered outdoor dining courtyard. There will be no future vehicle access or on site parking once the development is complete.
- New masonry wall along Northern boundary.
- New masonry wall along eastern edge of proposed outdoor seating.
- New fixed shut acoustic awning over outdoor seating area. The fixed shut awning that will be constructed of a Polycarbonate roofing system, specifically Danpal Seamless Roof System with Danpalon Multicell Panels, which has a documented acoustic rating of Rw (C,Ctr) 26(0,-3).
- New enclosed bin area located adjoining proposed masonry wall and eastern boundary.
- Associated fit out of outdoor seating area.

No increase in the approved patron numbers are proposed. The restaurant will maintain the existing approved patron capacity of 71 people, with 51 seated inside and 20 in the proposed outdoor area. As there is no increase in seating, there is no increase in traffic generation or parking demand of the existing restaurant.

The proposed operation details of the Restaurant and Outdoor Seating Area are contained within the Plan of Management accompanying this DA. I note that the proposed operation of the Restaurant and Outdoor Seating Area has implemented design advice from the Applicant's Traffic and Acoustic Engineer in order to ensure that there are no unreasonable amenity impacts to adjoining properties.

#### Our Comment:

The Proposed Polycarbonate (Danpal) roofing system has been reviewed by Pulse White Noise Acoustics Pty Ltd 8 December 2022 as meeting and exceeding their compliance criteria.

Since the initial referral Environmental has become aware of concerns of neighbouring residents about noise immediately outside of premises particularly at 12pm closing time and additionally noise from nearby late closing businesses: the changes to the area as a nighttime precinct appear supported by Council and State Government. Sleep deprivation is an arising Public Health issue, however we have only been tasked to look at the noise issues generated on the actual development site. Accordingly noise in public areas is for others to judge.

Therefore;

With the improved roof cover design Environmental Health supports the proposal with conditions.

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:

### DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

#### Acoustic Review

Within 30 days from the operations commencing under the terms of this consent, an acoustic review of the findings and recommendations of Pulse White Noise Acoustic (12 July 2022), including the amended road design, and any additional requirements at OC acoustic review stage; shall be carried out on site (during a busy period of trading such as a Friday or Saturday night). Any necessary actions to obtain acoustic compliance, shall be completed within a further 30 days of the required assessment.

The report associated with the compliance testing and any works or requirements is to then be furnished to Council for its records.

Reason: To ensure acoustic compliance in an operational situation.

### **Plan of Management**

The requirements of the Plan of Management are to be complied with and also upgraded to reflect any recommendations of the required additional operating acoustic review, based on the report by Pulse White Noise Acoustic 12 July 2022 (and further review 8 December 2022).

A copy of the plan is to be kept on site, updated with responsible staff documented for tasks such as music sound levels, occupant numbers, door/window closure, management of exiting patrons and maintenance contracts of equipment such as the kitchen exhaust and acoustic seals.

Reason: To ensure management of potential noise issues and that they are effectively dealt with ongoing.

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

### **Acoustic Requirements - On-going**

Compliance with the recommendations within the Acoustic Assessment by Pulse White Noise Acoustic dated 12 July 2022, as amended, and updated in an ongoing manner.

Reason: To prevent a noise nuisance to any neighbouring residential receiver.