

Attention Thomas Prosser – Planner By email – council@northernbeaches.nsw.gov.au

**Modification Appn. Mod (2020/0416) - DA 2020/0468, Address 29/31 Moore Road, Freshwater
Modification of Development Consent DA2020/0468 (Alterations and Additions to a Hotel)
(Further intensification with unacceptable impact for Residential area, CREEPING DEVELOPMENT)**

This submission addresses further concerns of a neighbour regarding the series of ongoing development applications and modifications for the Harbord Beach Hotel that progressively increase the extent of activities on an areal basis and, for the extended hours of impact.

- The Consent for the DA 2020/0468, was determined on inadequate assessment information, most notably, a deficient and inadequate noise assessment;
- This Mod 2020/0416 is similarly inadequately supported by impact assessment relative to that which could be reasonably expected to be provided with such an application.
- The Consent gave inadequate, dismissive recognition of neighbour concerns of noise disturbance and sleep disturbance in late evening and early hours of the morning that are entirely inappropriate for a residential zone and inconsistent with WLEP2000 objectives.
- The Council's Environment and Health Dept already appears to have made no assessment of the Mod, and relies on a mere statement for an acoustic advisor, that appears aligned with the Hotel Applications and perhaps multiple Hotel acoustic assessments, which could question the independence.
- The Consent did not appear to give proper recognition to the series of changes that have occurred to the Hotel over the last 20 to 30 years. This Mod should fully address requirements of the EP&A Act.
- The proponent's assessment against *"EP&A Reg 2000, Schedule 3 Part 2, Are Alterations and Additions Designated Development?" "Clause 36, Factors to be taken into consideration"* has not been adequately addressed", specifically review of *"36 (a) impacts having regards to: (iii) the number and nature of all past changes and their cumulative effects"* and, the matters in *Clause 36(b) particularly*
 - *the noise characteristics of the land and surrounding environment,*
 - *the degree to which potential environmental impacts can be predicted with adequate certainty, and*
 - *the capacity of the receiving (nearby residences) environment to accommodate changes in environmental impacts"*
- In relation to the northern courtyard, that is an external, poorly mitigated area,
 - it has expanded in size over time,
 - removed a significant acoustic barrier at western end (previous hairdressing shop),
 - increased late night hours of operation for northern courtyard
 - had additions of audio equipment
 - the owner's allowance of patrons yelling and shouting at late night hours.
 - Hours for Sunday night were previously to 10pm but were extended to midnight, 10pm should be the latest use of these external areas on every night (Sunday-Thursday) and only to midnight on Friday and Saturday if noise is controlled.
 - There is no reliable assessment of these changes and their impacts, but neighbours are aware of the changes and are impacted in terms regular occurrences of elevated noise and sleep disturbance.

- There has been no consideration of the consequences of sleep disturbance to neighbours and degradation of the residential amenity by boisterous patrons leaving at late night and through to early hours of the morning (12.30am). This is contrary to WLEP objectives.
- Continued efforts by the Hotel owner to further develop the northern courtyard and also to extend activities in the SW corner, initiated from 2006 and, still reshaping, where to next?
- Indications of intention to increase gaming (not indicated in current drawings but, clearly evident on DA 2020/0468 drawings) is not suitable for the residential environment.
- Apparent closure of the rear exit. This appears on Plans for the Mod but is not apparent to me on Plans for the DA and does not appear to be one of the matters raised in the supporting letter for the Mod. Were the DA plans that poorly presented that it was not obvious to me, or has it been slipped through in fine print. Please excuse me for extending discussion on potential closure of rear access, but that has a potentially significant change on the impacts that may be experienced by neighbours in Moore Road and Charles Street.
- Any closure of the rear exit, would exacerbate the noise disturbance at the front of the Hotel and for Moore Road and Charles Street residences. Yet, no noise assessment of a changed pattern of use and obvious change to impacts is apparent (and should be an essential part of the Council's determination process). Existing impacts are already excessive with noise disturbance and sleep disturbance, particularly due to the late night/early morning timing of the egress impacts. **(Simple solution to avoid disturbance in early hours to 12:30am is to have cleared the Hotel and all doors closed by midnight. This should be raised with Licencing authorities, but Council should not allow a change that increases noise impacts)**
- Given the unacceptable impacts experienced currently by neighbours and indicated increased impacts, it is indefensible that these changes have not been subject to a proper noise impact assessment, I certainly can't see adequate details of any relevant noise assessment that reflects a proper assessment of the realistic noise impacts. The only support is a token sign-off by an acoustic advisor, of questionable independence.
- Without an adequate detailed noise assessment, the changes should not be allowed to proceed in any form that has potential to increase noise impacts. Better description of movements of people from the Hotel and those timings would form part of the assessment, as well as a more realistic impact of the night-time noise impacts of the northern external courtyard.
- Poorly thought out Disability Access – An entry at corner of Moore Road and Charles Street is poorly considered, due to lack of capacity of roadwork, kerbside areas and parking to facilitate arrival and departure of disabled patrons. The opening of the wall to Charles Street and potential for reduced noise mitigation is also a concern.
- The obvious solution for a genuine consideration of disabled access is to provide Designated Disabled Parking in the rear car park with disabled access, direct from the carpark to the rear of the Hotel and to the Main Hotel area (via the rear entry) and to have an internal lift access within the Hotel, to the lower level of the Northern Courtyard. Without a lift between these levels, disabled patrons are not able to pass between the courtyard and the upper level facilities including amenities without exiting to the street and re-entering elsewhere. A lift structure internal to the Hotel premises, potentially where stairs now pass from the courtyard to the Main Hotel area, but inside the surrounding wall would address the ability of disabled patrons to move between parts of the Hotel and not outside in the elements.
- Any Lift structure that were installed at the western end of the courtyard should have design such that the full height of the entry point has an acoustic barrier at all times, particularly in evenings to midnight, to prevent noise emissions to the Charles Street/Moore Road areas.
- A sketch drawing indicating this area, modified from the drawings with the Mod Appn. is provided to indicate areas at the western end of the northern courtyard that should retain full acoustic barriers. Existing height of clear barriers and attenuation potential, is considered minimal and these could be raised to reduce noise impacts from this area.

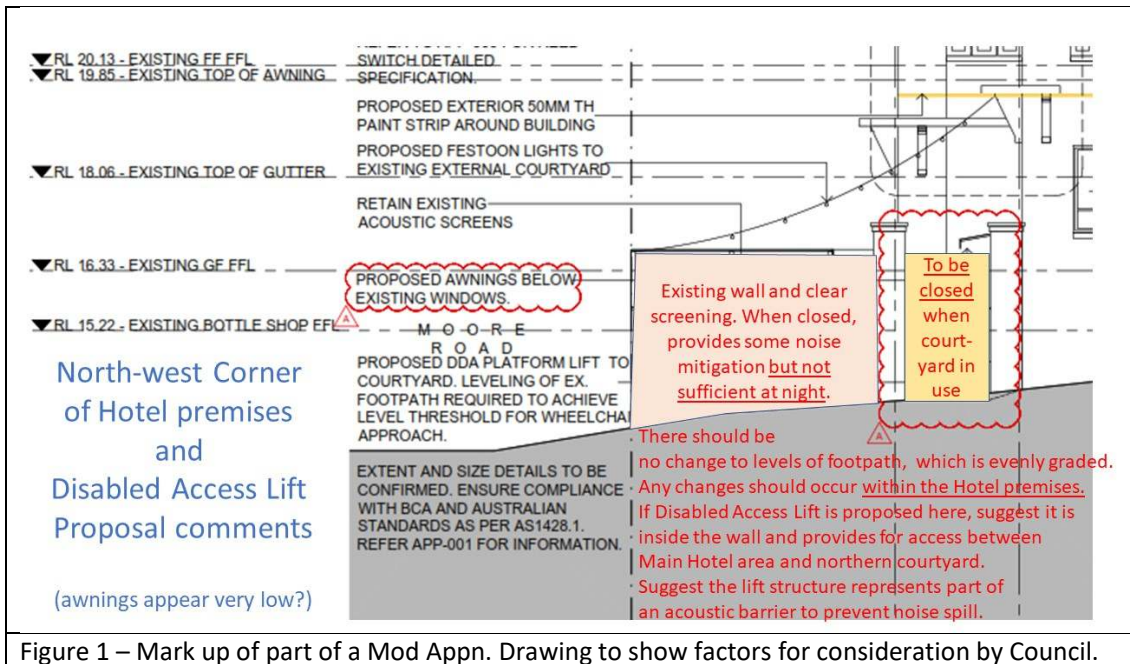


Figure 1 – Mark up of part of a Mod Appn. Drawing to show factors for consideration by Council.

In regards to the SW courtyard changes, this was a new area proposed in *DA 2006/1130 Addition of a Terrace to the Hotel* (lodged 20/11/2006), that involved removal of already inadequate parking spaces, and extension to area of operations. This provides a further example of the Hotel's expansion in extent and scale of activities over time that have not properly been considered for DA 2020/0468 or Mod 2020/0416. The parking spaces could have been used for Disabled parking and perhaps should be dedicated for that purpose now, or other spaces set aside for the purpose.

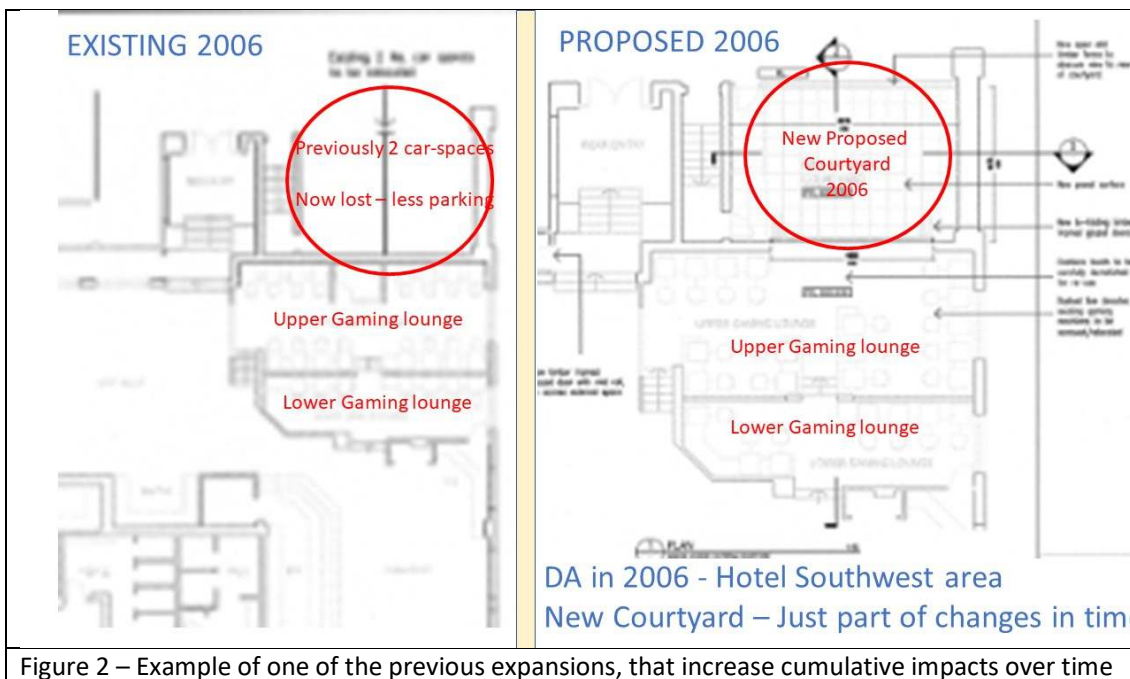


Figure 2 – Example of one of the previous expansions, that increase cumulative impacts over time

Figure 3 shows current proposal for the SW area and has been annotated with questions as to what are the consequences of the changes for noise impacts – I don't believe those aspects are anywhere near adequately assessed.

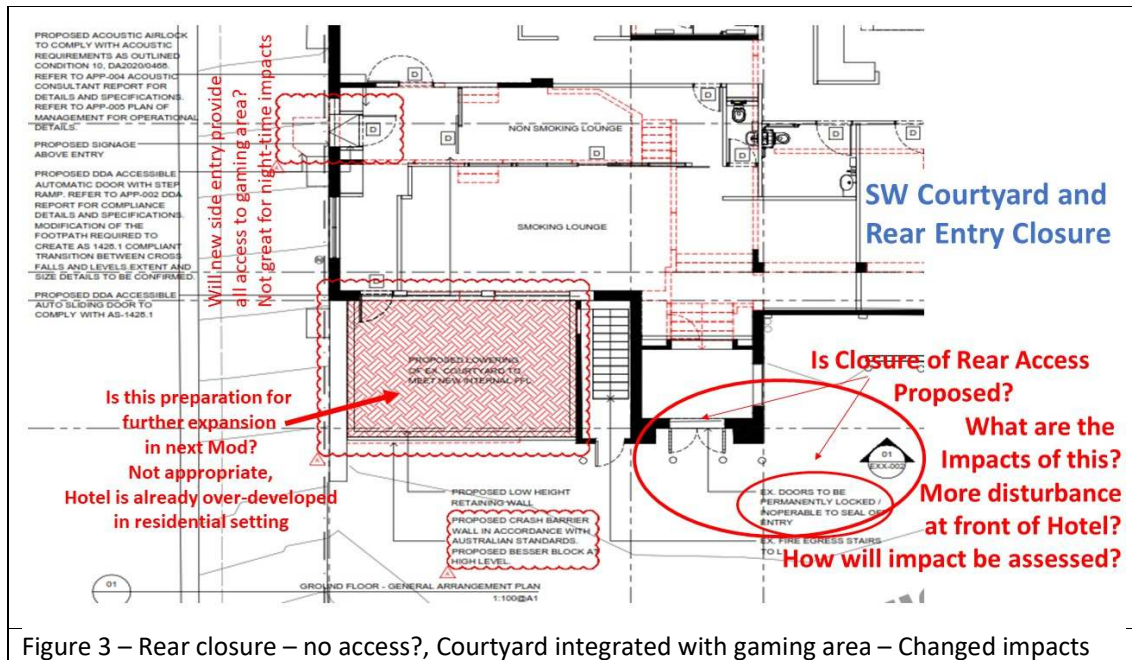


Figure 3 – Rear closure – no access?, Courtyard integrated with gaming area – Changed impacts

Conclusions

Modification 2020/0416 represents not only a variation to a recently made consent (DA 2020/0468) but more importantly, is a further variation in a series of variations that continue to increase impacts of the Hotel without regard to neighbour's genuine concerns of existing unacceptable impacts for a residential area. Neighbours experience noise disturbance and sleep disturbance late at night and to 12.30am in the morning, that is contrary to the residential zone amenity expectations.

Where Council approves development that increases already excessive impacts (late at night and early mornings in a residential area) and does not properly require comprehensive assessment of cumulative impacts, then it is negligent in its role as a determining authority. It also acts contrary to the stated objectives of the WLEP 2000 for protection of residential amenity.

Noise assessments undertaken (or where no details of assessment, statements made by the acoustic advisor) have not addressed the issues of concerns to neighbours and the cumulative noise impacts over time. Without adequate noise assessment, the experience of neighbours should be given greater weight, certainly where the impacts involve repeated events of sleep disturbance. The noise assessments fall short of those I have seen in other jurisdictions and should not be given any credence by the determining authority.

The location of the Hotel in close proximity to many neighbouring residences, with elevated noise levels of, 20dB or more above the natural background associated with from patrons leaving late at night and as late as between 12 and 12.30am and waking and disturbing neighbouring residents on any night of the week needs further consideration. Stephen Cooper's assessments don't add anywhere near the detail to assess those impacts. It is questioned whether Stephen Cooper does regular assessments of Licensed premises, and possibly lacks the independence to properly represent cumulative impacts.

This Mod needs to be properly assessed in the context of a series of modifications to the Hotel premises and to give proper consideration to the requirements of the EP&A Act.

This Mod needs to be assessed against the original development and all changes, such as:

- Increased use of external area late at night
- Extension of use from 10pm to 12midnight on Sunday night for external courtyard
- Increase in SW courtyard utilisation
- Current proposals intensifying external use without proper mitigation for existing impacts.
- Changes in patterns of use, such as closure of a main entry point at rear and transference of significant volume of pedestrian traffic to the front, a big concern late at night.
- Any new openings in external walls, e.g. to Charles Street should incorporate noise mitigation at least as good as existing walls provide, or ideally better than the current mitigation provided. The existing Plans don't give confidence for that outcome.

My expectation is that the Environmental Planning and Assessment Act requires that Modifications are properly reviewed in respect of the original form of the Development, not the previous change, in a long series of changes and cumulative impacts are properly considered, with requirement for increased noise mitigation measures to properly reduce cumulative noise impacts that have arisen over time.