

## Environmental Health Referral Response - industrial use

<b>Application Number:</b>	Mod2021/0439
<b>Date:</b>	21/09/2021
<b>To:</b>	Rebecca Englund
<b>Land to be developed (Address):</b>	Lot A DP 413126 , 26 Orchard Road BROOKVALE NSW 2100

### 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

Applicant seeks to modify number conditions of consent for DA2020/0160 including number of patrons.

The applicant has supplied an updated Acoustic Assessment by Acoustic Dynamics, dated 10 May 2021 (reference: 4806R001.JM.210505).

The acoustic report concludes:

*Acoustic Dynamics analysis and prediction calculations indicate the subject brewery achieves compliance with the relevant noise emission criteria, however, Acoustic Dynamics recommends the incorporation of the following management plan to protect the acoustic amenity of the surrounding area.*

The Applicant has provided an updated Operational management Plan that incorporates recommendations within the acoustic report.

The Operational Management Plan advises the following regarding music:

*Noise is primarily be produced through acoustic un-amplified bands and a provision for amplified music on Saturdays, Sundays, and Friday nights.*

While the premises is located well away from residential receptors due to topography and given the right weather conditions the noise may be able to travel on certain days and impact on residents in Freshwater/Brookvale area if the noise is not managed appropriately.

Environmental Health have no objections subject to adding conditions regarding the following:

- A condition regarding ongoing compliance with the Operational Management Plan; and
- Restricting the times of live music until 10pm and adding noise conditions to reinforce noise levels.

### New Information - Additional Review 16 September 2021

The applicant has provided a response regarding a condition proposed by Environmental Health within a referral response on 2 August 2021 that there be no Live Music after 10pm. The response from the

applicant is as follows:

*The updated acoustic assessment from Acoustic Dynamics concluded that the proposed modification, which included the provision for live music, achieves compliance with the relevant noise emission criteria.*

*Further to this point, prior to the recent lock-down, we had hosted 50+ different bands (on different occasions) regularly playing amplified music up until 12am without a single complaint being registered. No objections were raised by the 20+ neighbours notified and our acoustic report supports the continued hosting of live musical artists. We respectfully submit that it would be arbitrary and unjustified if we were restricted to play recorded music at 90dB after 10pm.*

*We submit that such matters can be appropriately dealt with by conditions of consent and provisions within the operational plan of management. Such provisions put the onus on us (and any potential future operators of the property) to continue to operate in a respectful manner. It also provides council with the appropriate recourse.*

*As a compromise we have adjusted the management plan to ensure the southern roller shutter door is closed prior to 10pm on evenings where live amplified music is played.*

Environmental Health have no major concerns permitting live amplified music after 10pm if the southern roller shutter door is closed prior to 10pm. However, Environmental Health considers it appropriate in order to protect amenity that live music after 10pm is restricted to Fridays, Saturdays and public holidays.

The applicant has also slightly increased the outdoor seating. Based on minimal increase in number of seating and adequacy of supplied acoustic report, Environmental Health have no concerns regarding the increase in outdoor seating.

## **Recommendation**

APPROVAL - subject to 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:**

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

#### **Noise Ongoing**

The Premises shall comply with the following:

- a) No live amplified music after 10pm Sunday to Thursday (except for public holidays).
- b) Southern roller door is to be closed prior to 10pm on evenings where live amplified music is permitted after 10pm.
- c) Amplified music (including live music) shall not exceed a maximum reverberant noise level of 90 dB (A) within the bar service area.
- d) Notwithstanding compliance with the above, The LA10\* noise level emitted from the premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz–8kHz inclusive)

by more than 5dB between 7:00 am and 12:00 midnight at the boundary of any affected residence.

For the purpose of this condition, the LA10 can be taken as the average maximum deflection of the noise emission from the premises. This is a minimum standard.

Reason: To protect the amenity of the surrounding area. (DACHPGOG5)

**Compliance with the Operational Management Plan**

The requirements of the Operational Management Plan are to be fully implemented in perpetuity from the issue of any interim / final occupation certificate.

Reason: To protect the amenity of the surrounding area. (DACHPGOG5)