

## Environmental Health Referral Response - industrial use

<b>Application Number:</b>	Mod2021/0047
<b>Date:</b>	13/04/2021
<b>To:</b>	Thomas Prosser
<b>Land to be developed (Address):</b>	Lot 27 DP 5055 , 22 Jubilee Avenue WARRIEWOOD NSW 2102

### 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

Environmental Health have been requested to provide comment in regards to the proposal for ' Modification of Development Consent DA2019/0123 granted for use of the carparking area associated with the Pittwater RSL Club for the purposes of an organise food market'. '

Reference is made to the report included with the application documentation titled "Noise Impact Statement

Review" dated October 2020 by Acoustic Consultant Ian McGrath. The report acknowledges noise monitoring undertaken for the purposes of the report reveals that the Amenity Criteria and or the Intrusive Criteria has been breached.

The report also makes comparisons to noise levels measured sampled in the inner city suburb of Annandale which are seen to be not applicable to this proposal. The report further states "The source of breaches of the Amenity Criteria and or the Intrusive Criteria being prescribed as L10 level  $\leq$  rating background level or (L90), plus 5, are in the environment under study most likely generated by local through traffic movements at the crossroad not from the markets activity itself".

Accordingly, Environmental Health is of the opinion that in the absence of further data to the contrary, the application should be refused based on the above breach, and the fact that any increase in intensity of use of the site for the purpose of an organic market, would only exacerbate any potential noise issues.

### Recommendation

REFUSAL

### Further comments - 8 April 2021

A review of "Noise Impact Statement Review No.2 - Organic Food Markets", dated April 2021 was provided to Council's Environmental Health Team to for comment and found there to be insufficient information, specifically:

- No data provided for positions 2 and 3. We accept position 1 is the "closest sensitive receiver", however, there is a significant topographical difference (10-20m) between position 1 and

- potentially impacted residents along Foley Street
- No LAmax data demonstrating peaks in sound, the cause of the peaks related to market operations and the number of times those peaks occur at each assessment location. This is necessary as sound from the “bump-in”, including sound from vehicles and assembly of stalls, may cause disturbances. We must be satisfied this isn’t a risk, or at least the risk is mitigated, before we end the trial period

Our original referral response (2021/187790) noted there was a breach of amenity criteria to which the applicants consultant has attributed to traffic, however, given the absence of certain data in both the 14 September 2020 and the 4 April 2021 readings we aren’t able to support this theory i.e. the increased activity when the markets are operating could be the cause of the amenity criteria breach.

If Council is to effectively cut-short the trial period based on these reports, we will need to see the LAmax data to better understand the cause of peaks in noise by reviewing their extent and how often they occur.

It must also be taken into consideration that the first assessment was completed during a period of tighter COVID restrictions on market attendance. A slight breach in amenity criteria attributed to the markets operations then would likely be exacerbated as COVID restrictions continue to ease.

## **Recommendation**

REFUSAL

### **Further comments - 12 April 2021**

"Annexure to; Noise Impact Statement Review No.2 - Organic Food Markets" dated 12 April 2021 was provided to Council's Environmental Health team for comment.

LAmax data provided and successfully characterises the noise present during the assessment in April 2021.

Based on the information provided we are confident the markets, operating as they currently are, will not have an adverse impact on residential receivers in relation to noise. Therefore, we support the application and recommend approval.

#### **Note:**

- The consultants reports quotes trading hours as “7am-2pm”. We expect the set-up or "bump-in" times are to remain at 7.30-8.30am which will be enforceable in the case we receive further complaints they are in breach.
- This latest review does not address potential increases in the market’s stall holder and public attendance and, therefore, its intensity. Increased market activity could result in Council receiving further complaints which will be investigated to determine whether or not offensive and/or intrusive noise is occurring.

## **Recommendation**

Approval - no 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:**

Nil.