



27 January 2025

Mr Scott Phillip
Chief Executive Officer
Northern Beaches Council
PO Box 82 MANLY NSW 2095

Re: Development Application for the use of the premises as a function centre
Premises: Pilu Restaurant, 80 Undercliff Road Freshwater
Council Ref: DA 2024/0946

1. Introduction

This submission letter has been prepared by Paro Consulting on behalf of Mr Tom Oates in relation to the Development Application at 80 Undercliff Road, Freshwater. The purpose of this submission is to outline matters pertinent to Council's assessment resulting from the review of additional information submitted by the applicant.

2. Revised application documentation

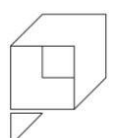
In response to Council request for additional information, the applicant has submitted additional documentation including the following.

- Amended architectural plans,
- Amended heritage impact report,
- Additional information relating to the scope and conclusion of previous acoustic assessments, and
- Review of accessibility compliance.

The amended information does not address key concerns regarding the operation and likely amenity impacts upon nearby residents.

Acoustic assessment

The Pulse White Noise Acoustics Pty Ltd (26 March 20204) report categorises the local baseline acoustic environment akin to an industrial area and thus applied an 'urban' classification for the purposes of establishing background noise comparison. This creates favourable report findings compared to measuring noise level exceedance against a residential acoustic



environment. The justification for the industrial/urban classification is that local *'ambient noise levels are significantly higher due to noise from the beach'*. No further consideration was provided including that the beach acoustic environment varies significantly depending on weather, swell conditions and visitation levels across the seasons.

As a practical matter, when the beach quietens down and the breeze stops in the evening, ie when the surrounding ambient noise levels are low, the use of amplified sound, indoors and outdoors, at the venue produces the most nuisance, especially for neighbouring properties that are situated above and only 20-30m away from the noise source.

The acoustic assessment modelling assumptions are incorrect by assuming that *'the existing building is a double brick masonry construction....existing windows are a 4 mm glazing'*.

A more accurate description of the built form is outlined in the Urbis heritage assessment which describes the building as a *'two-storey residential style weatherboard building'* and the subject building *'sits on top of a timber skirt foundation and features a variety of timber details including shingles, fretwork and timber verandah balustrades'*. The material and construction detail are key components in developing accurate acoustic modelling.

Further, the reliance upon keeping doors and windows closed for acoustic attenuation is not a sufficient mitigation measure considering certain rooms provide circulation space between internal and external areas for restaurant patrons and staff. In particular, the external door to the Garden Room is often left open for extended periods of time while patrons loiter around the area directly outside of the Garden Room during the operation of the restaurant (Refer to photos in Appendix 1). This is a key flaw in the proponents Plan of Management and acoustic modelling.

The Plan of Management assumes any amplified music will only consist of vocal and acoustic and to a maximum of 65dBA as a sound pressure level. The assumption that amplified music will not be utilised after 10pm should not be relied upon, particularly considering the venue has previously operated with amplified music until close. Also, in practice, as evidenced by the photos below, it is typically later in the evening, after dinner, that amplified speeches and the DJ (amplified music) – in breach of current consent conditions – commence, again, contrary to the 'no amplified music after 10pm' assumption (Refer to photos in Appendix 1).

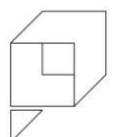
Due to the risk associated with noise nuisance, the extension of operating hours of the venue should not be granted. Nor should any change to the current consent conditions, limiting amplified sound, indoors and outdoors, be approved.

Accessibility

The proposed accessible pick up and drop off is proposed within the turning area of the Undercliff cul-de-sac which will impede traffic movements and create an unsafe drop off zone.

The change in ground levels between the public verge and the restaurant entry inhibits ability to provide accessible access. The recently submitted *'Revised Review of accessibility matters' letter by City Plan dated 23 October 2024* confirms the proposed access does not comply with *AS1428.1 Design for access and mobility*. The review also seeks to rescind the provision of handrails along the accessway which is a required measure under the report by Jensen Hughes (Reference 118690 Rev 1 dated 08 December 2023) commissioned by the applicant and initially submitted with the Development Application.

The proposed access is non-compliant and considered dangerous to traffic and pedestrian movements on Undercliff Road and for patrons requiring accessible access. It is dangerous to pedestrians as there is no footpath outside 80 Undercliff



Road. An accessible pick up and drop off in this area would mean pedestrians would have to walk in the middle of the road, around the parked accessible vehicle. Alternate access shall be provided from the site primary access from Moore Road carpark.

Heritage

The *RFI response Heritage Impact Statement* by Urbis does not provide sufficient assessment of the unauthorised building addition referred to as the 'Garden Room'. The assessment does not detail the external appearance of this structure and whether it complements the main building in terms of fabric, location and contribution to the curtilage.

The report instead relies upon the age of the structure stating that it is an integral part of the restaurant for two decades. This is not grounds for the intensification of the buildings use, particularly considering the proximity to Undercliff Road and the lack of acoustic attenuation for what is a lightweight structure. The report also ignores the fact that this structure has been unlawfully constructed, without approval and contrary to existing consent conditions (Refer to photos in Appendix 1).

3. Recommendations

The application should not be supported based on the key issues summarised below :

- The Pulse acoustic report contains several incorrect assumptions relating to the building materials of construction. The report also categorises the background acoustic environment akin to an industrial precinct based on the presence of beach noise. No further detail was provided to quantify or consider that the beach acoustic environment varies significantly depending on weather, swell conditions and visitation levels.
- The application relies upon impractical operational practices to alleviate noise nuisance including keeping doors closed within rooms and areas used for circulation. Due to the risk associated with noise nuisance, the extension of operating hours of the venue should not be granted.
- The proposal has not demonstrated traffic management for the intended accessible pick up and drop off area at the cul-de-sac turning area on Undercliff Road. Further, the proposed access is non-compliant for patrons requiring accessible access. Alternate access shall be provided from the site primary access from Moore Road carpark.
- The updated heritage assessment does not detail the external appearance of the unauthorised 'Garden Room' that has been constructed right to the boundary, with no setback. The use of this space also causes amenity impacts due to its proximity to residential properties.

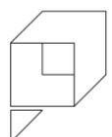
4. Conclusion

The proposed development has significant and increased environmental impacts on the surrounding locality and specifically, noise impacts on our client's property. The applicant has failed to once again accurately assess the level of impacts and produce accurate technical reports.

This development is not in the public interest and fails to demonstrate merit and should therefore be refused.

Should you have any questions, please contact me on 0422 983 710 or at daniel@paroconsulting.com.au.

Kind regards,



Daniel Barber

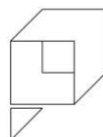


Director

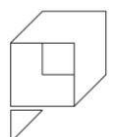
B.Plan (Hons) M.ProDev CPP MPIA

Paro Consulting

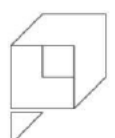
Appendix 1 – Photos of premises



Photos – unauthorized external additions on the boundary (the “Garden Room”)- not addressed by Heritage Report



Photos – Access door to Garden Room routinely left open – not addressed by Acoustics Report



Photos – late evening amplified music at weddings and other functions – contrary to current consent conditions and assumptions made in Plan of Management.

