

Submission

Modification Application No: DA2020/0175

Address: Lot 27 DP 5055, 22 Jubilee Avenue
WARRIEWOOD NSW 2102

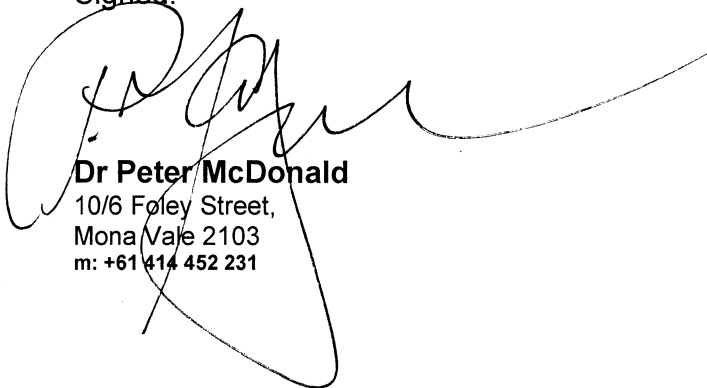
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3 x REASONS to REFUSE

MOD2020/0175 – DA2019/0123 – Mona Vale Market at Pittwater RSL Club

Brief Background

Since March 2019 we have successfully argued that operation of a food market (of 70-100 traders) in the carpark of the Pittwater RSL Club would have negative noise and traffic/parking impacts on the amenity of nearby residents.

In the first instance, the Notice of Determination for **DA2019/0123** issued on 19 June 2019 was very clear – a ‘trial period’ of 18 months (not a free rein for 5yrs) with restricted Sunday hours of operation as per this 1st comparative Table -

	Proposed (5 Years)	Approved (18 Months)
Set-up (Bump-in)	6.30am to 7.30am	7.00am to 8.30am
Trading	7.30am to 12.30pm	8.30am to 12.30pm
Pack Down (Bump-out)	12.30pm to 2.00pm	12.30pm to 2.00pm

The NBLPP supported their unanimous decision with the following statement:

‘To monitor the operation of the consent to ensure no adverse impact on any adjoining land or the amenity of the neighbourhood and the temporary use of the land in accordance with the consent’.

On 7 November, with only 2 months of trading, the market operator submitted **MOD2019/0547** for much earlier set-up and trading hours without any hard evidence of the market’s actual performance to support such a request. Instead there was a flurry of submissions either supporting or objecting to this request.

On this occasion, another NBLPP was *unconvinced* any change in the operating hours was justified and unanimously determined on 5 February 2020 to maintain the status quo as shown in this 2nd comparative Table -

	Proposed (18 Months)	Approved (18 Months)
Set-up (Bump-in)	6.00am to 7.30am	7.00am to 8.30am
Trading	7.30am to 12.30pm	8.30am to 12.30pm
Pack Down (Bump-out)	12.30pm to 2.00pm	12.30pm to 2.00pm

Now after only six months of trading in the RSL carpark the operator of the Mona Vale market has submitted **MOD2020/0175** requesting approval to trade earlier - from 8.00am versus 8.30am and (although not stated) still finish at 12.30pm.

First Reason to REFUSE MOD2020/0175 -

‘Excessive Vehicle Trader Noise Proven To Negatively Impact Resident Amenity’

During the 5 February 2020 NBLPP meeting in response to a panellist question about *‘noise made by Traders when setting up early’*, the seasoned market operator emphatically responded:

‘I would refute the imputation that there is (trader) noise early in the morning’.

Stephen Choularton, NBLPP Webcast, 5 February 2020

Now an independent Report prepared by Rodney Stevens Acoustics (henceforth referred to as RSA) proves that, despite his Plan of Management, this market operator’s assertion was incorrect and has vindicated ‘resident’ experience.

As shown in Table **5.1** of RSA’s Report (page 7), the measured intrusive noise level of market set-up activities at the ‘affected receiver’ locations (R1, R2) are **not compliant** – they actually exceed the measured RBL of 40 by more than double the 5 dB [A]. For R1 it was **12 dB [A]** v’s the 5, for R2, **11 dB [A]** v’s the 5.

While quoting NSW EPA’s Noise Policy 2017, section 2.3 (page 9) –

‘The intrusiveness of an industrial source may generally be considered acceptable if the level of noise from the source does not exceed the background noise by more than 5 dB when beyond a minimum threshold. This intrusiveness noise level seeks to limit the degree of change a new noise introduces to an existing environment’.

To counter any question about ‘the source’, the Report (page 6) explicitly states that *‘the main noise generating activities included the arrival of vehicles servicing the site, the unloading of trucks and the set-up of market stalls’.*

Furthermore, to explain noise intrusion at the most sensitive ‘suburban’ receivers, the Report (page 7) again explicitly states *‘the driving factor is the proximity of the market site to the residential receivers in addition to the proximity of the main entrance on Jubilee Avenue to the nearest receivers’.*

Hence, it is unreasonable for the author of RSA’s Report to excuse the Market Traders’ gross exceedance of ‘noise emissions compliance’ on the basis it *‘only occurs during the initial arrival and set-up period of approximately 7.00am-7.30am, and one day a week’.*

‘Once your morning sleep is deprived, it is deprived, there are no ifs or buts!’

In net, there is now *hard evidence* that ‘trader-generated noise emissions’ for the Mona Vale Market have **repeatedly been non-compliant** - Sunday morning after Sunday morning - since opening on 1 September 2019, to date **30-33** times!

Second Reason to REFUSE MOD2020/0175 -

‘Existing Trader Set-up’ Time is Not Compliant with Noise Policy 2017

The relevant guidelines in the Noise Policy 2017 do not permit vehicle noise before 8am or after 8pm on any Saturday, Sunday or public holiday.

On 6 December 2019 the Environmental Health team advised there was a conflict between these Noise Policy 2017 guidelines and Mona Vale Market’s existing ‘set-up’ time from 7.00am on Sundays.

Regardless, without an independent acoustic Report to demonstrate that a 7.00am ‘set-up’ time might (or might not) be acceptable, the NBLPP on 5 February 2020 chose not to embrace Environmental Health’s advice to adjust the market’s ‘set-up’ time to comply with the Noise Policy.

Thereby sustaining, without any justification, a ‘set-up time’ dispensation the Mona Vale Market had been granted. The RSA report now underscores that this market’s 7.00am ‘set-up’ time should no longer be considered acceptable.

Additionally, the Table (below) shows all **8** of this operator’s established markets do not trade before 9.00am - irrespective of the day of the week.

<u>Established/Location</u>	<u>Trading Hours *</u>	<u>Day/s</u>
Mosman	9.00am to 2.00pm	Wednesday
Hornsby	9.00am to 2.30pm	Thursday
Double Bay	10.00am to 2.00pm	Thursday
Newcastle	10.00am to 3.00pm	Thursday/Friday
Leichardt	9.00am to 1.00pm	Saturday
The Entrance	10.00am to 2.00pm	Saturday
Kings Cross	10.00am to 3.00pm	Saturday/Sunday
Marrickville	10.00am to 3.00pm	Sunday
<u>Trial (18mths)/Location</u>		
Mona Vale (Pittwater RSL)	8.30am to 12.30pm	Sunday
Seaforth (Balgowlah RSL)	[8.00am to 12.30pm]	[Sunday]

*Note – Trading Hours as per Organic Food Markets website on 29/11/2019 and 23/05/2020 – refer Appendix.

As you can see, if **MOD2020/0175** were approved, Mona Vale Market’s trading hours would match Seaforth – a yet-to-open ‘trial’ market required to have *actual* ‘parking’ conditions surveyed before opening and after this market has been

operational for no less than **3** months to gauge the level of parking activity generated in the Balgowlah RSL carpark and in adjacent residential streets.

Before progressing, it is worth noting the **Proposed** v's **Approved** hours for the Seaforth 'trial' market since its DA2019/0865 Application had very much relied upon the twists and turns of the Mona Vale 'trial' market.

	Proposed (18 Months)	Approved (18 Months)
Set-up (Bump-in)	6.00am to 8.00am	7.00am to 8.00am
Trading	8.00am to 12.30pm	8.00am to 12.30pm
Pack Down (Bump-out)	12.30pm to 2.00pm	12.30pm to 2.00pm

The 'very early set-up time' proposed for Seaforth harks back to MOD2019/0547 as well as remarks freely made by the seasoned market operator:

“Even the market you go to at 9am on a Sunday morning, some people have probably been there since 5am or 6am, building things up”

Stephen Choularton, NBLLP Webcast, 19 June 2019

As Grey's Consulting prepared the Parking & Impact Assessment Reports for both 'trial markets, it is reasonable to expect that the Council's Traffic Engineer would have compared the *essentials* of each report.

Given each 'trial' market was inoperable when the Reports were prepared, neither was based upon the *parking realities* of each 'trial' market location. Instead the Reports relied upon the same Traffic Engineer from Grey's to twice model the same December 2018 data, from the '*winding-down*' Frenchs Forest food market, to mimic the parking nuances of each 'trial' market location.

Unsurprisingly, the scope, summary and conclusions are the same word-for-word, for the April and August 2019 Reports (refer Attachments **3** and **4** in the Appendix). A shocking discovery which undoubtedly motivated the Council's Traffic Engineer to make *actual* 'parking' surveys a special condition for supporting approval of DA2019/0865.

Third Reason to REFUSE MOD2020/0175 -

'Trial Market has NOT Proven It Deserves 5 Year Approval to Operate'

We are in accord with Environmental Health's 15 May 2020 recommendation **NOT** to extend consent from 18mths to 5yrs for this *problematic* food market.

To do so would not only create an undesirable precedent but also be contrary to community expectations at large!

Appendix

List of Attachments

Modification Application No: MOD2020/0175

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- 1. List of OFM Markets – Locations/Times – 29 November 2019**
- 2. List of OFM Markets – Locations/Times – 23 May 2020**
- 3. Report Extract – Greys Consulting/Mona Vale Market – 7 April 2019**
- 4. Report Extract – Greys Consulting/Seaforth Market – 11 August 2019**

Markets Times and Locations

SUBURB	DAY/TIME	LOCATION
Double Bay	Thursday (10.00 am to 2 pm)	Double Bay Guilfoyle Park, Guilfoyle Avenue, Double Bay, 2028
Hornsby	Thursday (9.00 am to 2:30 pm)	Hornsby Hornsby Mall, Florence Street & Hunter S, Hornsby, 2077
Kings Cross	Saturday & Sunday (10.00 am to 2 pm)	Kings Cross Fitzroy Gardens, Macleay Street, Kings Cross, 2011
Leichhardt	Saturday (9.00 am to 1 pm)	Orange Grove Public School Cnr Perry Street & Balmain Road, Leichhardt, 2040
Marrickville	Sunday (10.00 am to 3 pm)	Marrickville 142 Addison Road, Addison Road Centre, Marrickville, 2204
Marrickville	Sunday (10.00 am to 3:00 pm)	Marrickville Hall 142 Addison Road, Addison Road Centre, Marrickville, 2204
Mona Vale	Sunday (9.00 am to 12:30 pm)	Mona Vale Pittwater RSL, 82 Mona Vale Road, Mona Vale, 2103
Mosman	Wednesday (9.00 am to 2:00 pm)	Middle Head Next to Middle Head Cafe, 1110 Middle Head Road, Mosman, 2088
Newcastle	Thursday and Friday (10.00 am to 3 pm)	Newcastle Hunter Street Mall, Hunter Street, Newcastle, 2300
Rouse Hill	Saturday (10.00 am to 2 pm)	Rouse Hill Market Sq, Cnr Market Ln and Tempus St, Rouse Hill, 2155
The Entrance	Saturdays (10.00 am to 2:00 pm)	The Entrance Memorial Park, Marine Parade, The Entrance, 2261

29/11/19
#1

Markets Times and Locations

SUBURB	DAY/TIME	LOCATION
Double Bay	Thursday (10.00 am to 2 pm)	Double Bay Guilfoyle Park, Guilfoyle Avenue, Double Bay, 2028
Hornsby	Thursday (9.00 am to 2:30 pm)	Hornsby Hornsby Mall, Florence Street & Hunter S, Hornsby, 2077
Kings Cross	Saturday & Sunday (10.00 am to 2 pm)	Kings Cross Fitzroy Gardens, Macleay Street, Kings Cross, 2011
Leichhardt	Saturday (9.00 am to 1:00 pm)	Orange Grove Public School Cnr Perry Street & Balmain Road, Leichhardt, 2040
Marrickville	Sunday (10.00 am to 3 pm)	Marrickville 142 Addison Road, Addison Road Centre, Marrickville, 2204
Marrickville	Sunday (10.00 am to 3:00 pm)	Marrickville Hall 142 Addison Road, Addison Road Centre, Marrickville, 2204
Mona Vale	Sunday (9.00 am to 12:30 pm)	Mona Vale For Jan 2020 at The Village Park, Crn Pittwater & Barrenjoey Roads in Feb back at Pittwater RSL, 82 Mona Vale Road , Mona Vale, 2103
Mosman	Wednesday (9.00 am to 2:00 pm)	Middle Head Next to Middle Head Cafe, 1110 Middle Head Road, Mosman, 2088
Newcastle	Thursday and Friday (10.00 am to 3 pm)	Newcastle Hunter Street Mall, Hunter Street, Newcastle, 2300
The Entrance	Saturdays (10.00 am to 2:00 pm)	The Entrance Memorial Park, Marine Parade, The Entrance, 2261

#2
23/5/20

5 Summary and Conclusions - *MONA VALE MARKET*

Greys was engaged by Organic Food Market to perform a traffic impact and parking assessment in support of a development application for a proposed Sunday Organic Food Market at the existing Pittwater RSL Club in Mona Vale. The premises are located at 82 Mona Vale Road, Mona Vale.

The proposed development was assessed in accordance with the existing Sunday Organic Food Market in Frenchs Forest traffic and parking requirements. Existing Frenchs Forest Sunday Market was chosen as an acceptable case study to determine parking demand and trip generation rates anticipated for the proposed food market. The assessment outcomes are as follows:

- > An investigation of the available public transport was undertaken revealing excellent public transport access to/from the proposed development;
- > A site visit was undertaken by Greys Consulting Traffic Engineer on Sunday 02/12/2018 during the midday peak hours;
- > An additional trip generation of 353 vhp trips are projected during Sunday midday peak hour;
- > A SIDRA intersection assessment was undertaken at the intersection of Mona Vale Road/Foley Street. SIDRA analysis results show that development of the proposed Organic Food Market will have negligible impacts on the intersection and surrounding road network performance. The impacts will be short and acceptable due to flexibility of SCATS signals which can allocate sufficient green time (maximum green) to busier legs (side roads) during peak times;
- > As part of this report, a parking assessment was also undertaken. The RSL Club supplies 397 off-street parking spaces for the patrons. A holistic parking demand analysis was undertaken for a Sunday. The analysis outcomes show that ample parking spaces will be available at all times for the RSL Club patrons and the proposed food market customers;
- > concrete connected footpath to Mona Vale Road footpath is provided for convenient and safe pedestrian access and connectivity; and
- > The proposed Organic Food Market development is acceptable in terms of traffic and parking matters and will not negatively impact the surrounding road network safety and amenity;

5 Summary and Conclusions - *SEAFORTH MARKET*

Greys Consulting was engaged by Organic Food Markets to perform a traffic impact and parking assessment in support of a development application for a proposed Sunday Organic Food Market at the existing Balgowlah RSL Club at Seaforth. The premises are located at 30-38 Ethel Street, Seaforth.

The proposed development was assessed in accordance with the existing Sunday Organic Food Market in Frenchs Forest traffic and parking requirements on a pro rata basis. Existing Frenchs Forest Sunday Market was chosen as an acceptable case study to determine parking demand and trip generation rates anticipated for the proposed food market. The assessment outcomes are as follows:

- > An investigation of the available public transport was undertaken revealing excellent public transport access to/from the proposed development;
- > A site visit was undertaken by Greys Consulting Traffic Engineer on Sunday 04/08/2019 during the midday peak hours;
- > An additional trip generation of 163 vhp trips are projected during Sunday midday peak hour;
- > A SIDRA intersection assessment was undertaken at the intersection of Manly Road/Sydney Road intersection and Ethel Street/Sydney Road roundabout. The SIDRA analysis results show that development of the proposed Organic Food Market will have negligible impacts on these intersections and surrounding road network performance. The impacts will be short and acceptable.
- > As a part of this report, a parking assessment was also undertaken. The RSL Club supplies 235 off-street parking spaces for patrons. A parking demand analysis was undertaken for a Sunday. The analysis outcomes show that ample parking spaces will be available at all times for the patrons of the RSL Club patrons and the proposed Sunday market;
- > concrete connected footpath to Sydney Road footpath is provided for convenient and safe pedestrian access and connectivity to the public transport; and
- > The proposed Organic Food Market development is acceptable in terms of traffic, parking, pedestrian and public transport access and will not have any detrimental impacts on the surrounding road network safety and amenity;