

## Environmental Health Referral Response - industrial use

<b>Application Number:</b>	DA2023/0368
<b>Proposed Development:</b>	Fit out and use of the courtyard for the seating of 100 patrons, operating from 8.00am to 10.00pm (same as existing)
<b>Date:</b>	16/11/2023
<b>To:</b>	Nick England
<b>Land to be developed (Address):</b>	Lot 1 SP 61679 , 1 / 9 - 15 Central Avenue MANLY NSW 2095

### 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

#### ***Supported, subject to Conditions***

The proposal seeks Council approval to refurbish the existing communal outdoor dining space to improve the amenity and functionality of the space.

The use of the communal commercial courtyard is to remain unchanged, with the capacity restricted to 100 patrons and operation limited to between 8.00 am and 10.00 pm only (in line with current approvals).

Noise concerns raised previously by Council have been addressed and Environmental Health believe noise can be managed by suitable conditions.

Environmental recommends approval subject to conditions.

**Planner comment:** It is noted that the Environmental Health officer supports the proposal, based on an occupation limit of 100 patrons. As discussed throughout the report, the potential occupation of the expanded restaurant is considered to be approximately 174 patrons. As such, it is considered that the acoustic assessment to which the application relates is misleading and therefore the assessment of the Environmental Health officer has not adequately considered all relevant matters.

### UPDATED REFERRAL

Another review of the acoustic report dated 16 March 2023 prepared by WSP Australia has raised a number of issues that Environmental Health wish to have reviewed in order to ensure all possible noise matters have been considered and assessed.

The following factors has already been assessed within the acoustic report.

1. Patron capacity of up to 100 patrons in the outdoor courtyard within 1 in 3 people talking with a raised voice.
2. Patron and background music noise levels from internal areas
3. Northern boundary fence to the residential courtyard
4. Soft chair furnishings and plant features
5. New outdoor servery and small storage structures
6. Outdoor Bar, servery, and a small storage building.
7. Any music on the courtyard to be low background music
8. And the installation of either Option1 or 2 roof/awning.

The outdoor area is proposing a maximum capacity of 100 patrons (**seated only**). However, consideration needs to be given to the potential noise impacts from additional sources such as:

- Patrons from inside the premises using the internal corridor and going through the courtyard to the communal sanitary facilities.
- The possibility of these 'inside' patrons using the outdoor servery area
- The possibility of the inside patrons standing and congregating in the courtyard at the servery area creating more people noise.
- The addition of serving staff in the outdoor area (servery area, wash up, table service)
- Noise after 10:00pm due to staff cleaning the courtyard area,

Note that this acoustic assessment for the outdoor courtyard includes contribution from internal patron and music noise breaking out to the courtyard as described in Section 3.1. however, it hasn't considered that a considerable number of patrons may enter the courtyard area to use the servery or potentially enter the shared sanitary facilities.

The response to further information dated 22 September 2023 has stated:

*it is also proposed to provide an internal walkway along the back of the tenancies, so patrons can gain direct access to the shared amenities without the need to go outside of the building, and have to walk through the courtyard to re-enter the building to access the toilets. This will greatly assist with noise management, especially after 10.00pm when the indoor areas are still operating and the outdoor courtyard area is closed. Patrons will no longer need to exit Insitu into the courtyard to gain access the toilets after 10.00pm.*

Can the applicant please submit the plans identifying this internal walkway?

Many behavioural noise management solutions have been provided such as staff managing the operable roof, staff monitoring numbers in the courtyard, staff closing the external doors when amplified music is being played inside the venue. These behavioural controls are not easily managed,

controlled or enforced, and Council is requiring suitable design noise mitigation measures to be provided.

Council understands the external doors to the courtyard are proposed to be locked at 10:00pm however this is highly unlikely to occur. The additional information has stated '*cleaning of the space occurs the morning after prior to the venue opening*'. This is not encouraged by Council especially with the courtyard being an outdoor dining area there is the potential for attracting rodents if spilled food is left on the tables, ground from the previous night. Therefore, cleaning of the courtyard area will need to occur after it closes to the patrons which results in further noise after 10:00pm.

Environmental Health suggest the outdoor courtyard be restricted to operate until 9:00pm, allowing that additional 1 hour until 10:00pm for staff clean up and Environmental Health also suggest the removal of the servery area to further reduce noise from staff operations and potential patron congregation around the servery.

Environmental Health recommends refusal at this time

The proposal is therefore unsupported.

Note: Should you have any concerns with the referral comments above, please discuss these with the Responsible Officer.

**Recommended Environmental Investigations Conditions:**

Nil.