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**From:** Stephen Jones  
**Sent:** 12/03/2024 4:39:38 PM  
**To:** Planning Panels - Northern Beaches  
**Cc:** Council Northernbeaches Mailbox  
**Subject:** TRIMMED: Objection to Mod2023/0684  
**Attachments:** Written Submission re Mod20230684.pdf;

Please find attached my letter of Objection

Regards  
Stephen Jones



Development Planning Panel

Northern Beaches Council

### **OBJECTION TO Mod2023/0684**

#### **1191 Barrenjoey Rd Palm Beach**

I live at 3 Waratah Road Palm Beach with my family.

We have lived at 3 Waratah Road Palm Beach for over 22 years

#### **SUMMARY**

**I object to this Modification application on the grounds that the proposed increase in operating hours for the premise would substantially increase the time frame that the neighbours would have to be subject to the noise from the venue, which will result in significant adverse noise impacts on the neighbours.**

**An almost doubling of operating hours from 9 hours per day (7 am to 4 pm) to 16 hours per day (7 am to 11pm) will only result in a significant increase in the noise and disturbance effects on the neighbours.**

**This increase in operating hours nearly doubles the allowed operating hours and is totally unreasonable.**

My detailed objections were provided in my letter to NBC dated 12 February 2024

#### **Saturday Night 9 March 2024 Experience**

- There was a Wedding function at The Joey
- Extremely high level of noise (music, patrons, deep Bass) from 5 pm to 10pm
- Noise, particularly the Bass beat could be heard inside my house from 5 pm to 10pm
- Caused a serious amount of anxiety to my family
- I contacted the operator on numerous occasions to request they turn down the music and turn down the Bass beat and change the style of music to one with NO bass beat
- The operator made no attempt to turn down the music or the Bass beat all night and in fact was quite rude with his response
- Patrons were still inside and outside the venue until 10;45/11pm
- No attempt was made by the operator to move patrons off the premise at 10 pm. I have video proof which I will supply to NBC separately
- They Breached this condition of consent
- the number of guests in attendance was well in excess of the approved max 152
- Drunken patrons wrestling and fighting outside the venue

This is potentially what we are going to have to deal with 7 nights a week until 11pm

How will the amenity of the surrounding locality be maintained when there is a doubling of trading hours and we have to deal with what happened on Saturday 9 March 2024 whenever they hold a function, which could now be 7 days per week.

## **Application for Modification Assessment Report**

The Assessment report and conclusions reached by Michael Stephen from GAT and Associates should be rejected by the Development Determination Panel as the report has not addressed the concerns of the nearby residents nor considered on an independent and fair basis the adverse effects of the proposed almost doubling of trading hours will directly have on the nearby residents.

**How can someone who does not live in the nearby residence, or have ever been exposed to the noise radiating from the venue in the past, or even bothered to speak with the nearby residences be in a position to pass assessment on how these modifications will effect the residents.**

My comments which support the conclusion that this report should be rejected are as follows

### **Executive Summary**

The "in favour" submissions to the Modifications should not be relied upon because

- They are biased and do not consider the effects on the nearby residents
- Included several submission from persons that have an interest in The Joey.
- Most persons do not live in the residential area effected by the noise from The Joey

I disagree with the conclusion that the proposed modifications are acceptable in terms of acoustic impacts.

Acceptable to who ?

The Assessment officer does not live in Palm Beach.

He made no contact with any of the effected residents to obtain their opinion on the acoustic effects

He made no attempt to witness for himself the direct adverse acoustic effects that an increase in trading hours will have on the nearby residents eg Saturday Night 9 March 2024.

The proposed modifications are NOT acceptable in terms of acoustic impacts to the effected nearby residents.

### **Assessment Introduction**

The report states that a site inspection was conducted and consideration has been given to the impacts of the development upon the nearby properties. There was no inspection done from my property and no one has asked me to comment on the impacts of the extended trading hours.

The report also states that Notification to surrounding properties were made.

Notification was clearly ineffective as many of my neighbours did not receive the notification and were not aware of the modification.

The assessment report process is clearly flawed as the most effected persons, being the nearby residences were not consulted.

### **Section 4.55 (1A) (a) Other modifications**

I disagree that the modification is of minimal environmental impact and that it will have no unreasonable amenity impact to surrounding properties.

How can someone say this without consulting the people that the changes will effect.

This is not a fair assessment

It is biased to whatever the assessment officer thinks

He cannot logically make an assessment without all the facts.

And he will never have all the facts unless he consults the people directly effected.

Doubling of the trading hours is not minimal in anyones eyes other than this assessment officer

The assessment is flawed and cannot be relied upon as an independent view of all the facts and effects

### **Section 4.55 (1A) (b)**

It states that the extended operating hours can be managed through conditions of consent.

Why do they need to be managed?

Does he think that there will be potential issues and that they can just be managed through conditions of consent?

Who has to Police these conditions of consent?

It is far more efficient to not extend the operating hours in the first place, not have any potential issues and not have any conditions of consent that need to be applied, or Policed in the first place.

If you want to put in a condition of consent that will avoid any potential issues for the residents then ban functions outright.

### **Noise Assessment**

The assessment report refers to the Noise assessment

The Noise assessment is flawed for many reasons and cannot be relied upon as detailed in my letter of objection to Council dated 12 February 2024

It did not review the noise effects on the properties in Waratah Rd, being the closest properties to the venue.

### **Speaker Orientation**

The proposed conditions regarding speaker direction are absurd.

The speakers are fixed to the wall of the building and are oriented to the south west.

The effected properties are directly south and are in direct line of the speakers.

Why orient the speakers to the south west, in the direction of the residences?

They need to be oriented to the north.

### **Noise Limiter**

How can a noise limiter limit the noise from patrons on the outside deck, like what we experienced on Saturday night?

### **Other Venues**

CASA does not have functions and after numerous complaints from neighbours they play soft music with NO Bass.

The Dunes music does not radiate directly to the properties in Waratah Rd

The Joey's music does radiate directly to the properties in Waratah Rd

Therefore there is no comparison.

A better comparison to other venues is the impact that late night venues have on the surrounding neighbours eg

- Manly Wharf Hotel
- Pasadena

Both these venues have had numerous noise complaints and determinations from Liquor & Gaming NSW against them with conditions placed on them regarding noise, number of patrons, hours of trade etc etc

All of this action against these venues had to be started by residents and places a huge amount of work on the residents and the authorities.

I urge you to have some foresight into the potential issues that will happen if this venue is allowed to trade to 11 pm 7 days per week and stop these issues before they start by rejecting the application for extended hours now.

### **Other misunderstandings of Noise issues**

The assessment officer and the Noise consultant made no comment

- of how music and noise travels over water
- how noise travels from the venue if there is a north east wind blowing.
- How Deep Bass beat travels further and penetrates more than other noise

None of these issues were mentioned in the Noise impact assessment

All of these issues have a direct effect on the nearby residents which we have experienced previously from this venue

The assessment Officer and the Noise consultant has not had any experience with the actual noise radiating from this venue directly to houses in Waratah rd, nor did they ask.

### **Intensification**

The report fails to note that intensification can not only come from an increase in the number of Patrons, but it can come from an increase in hours.

### **Shut down at 10 pm**

All patrons required to leave within 30 minutes of closing. Our experience on Saturday 9 March 2024 showed that the operators have no intention of following this condition. And then who is to Police this.

### **Noise orientation**

How do you orient patrons to the north as their noise is just as bad as the music?

### **Environmental Conservation under PLEP 2014**

Proposed use for a café. Boat hire business are permissible uses with consent

Land can be used for kiosk or restaurants or cafes with development consent.

A function center is a completely different use than a restaurant.

### **The Governor Philip Park Plan of Management**

The assessment report refers to the Governor Philip Park Plan of Management (the POM) and states that the Boathouse building needs to comply with section 2.8.1 permissible uses.

It is noted that in the POM on page 25 that "NO AREA OF THE FOOD AND BEVERAGE OUTLET IS TO BE SET ASIDE FOR PRIVATE FUNCTIONS."

This is exactly what The Joey is doing, setting aside an area, being the whole venue for a private function.

It also states that applications are required to be made to Council for wedding ceremonies and receptions. I am pretty sure that The Joey has not made an application for any of its functions to date.

### **Summary**

The summary states that the modification does not result on any unreasonable impacts on nearby properties.

I totally disagree with this

The assessment officer just needed to be inside my house on Saturday 9 March 2024 between 5 pm and 10 pm and he would have heard first hand the level of noise from the music and patrons and the intensity of the Bass beat.

I am sure he would have a come to a different opinion.

Why should we have to suffer the effects of the noise radiating from this venue when they hold a function to 11pm 7 days a week?

Why should you allow them to increase the hours with then potentially doubling of the adverse noise effects of this on us.

Their needs to be a condition imposed to Ban functions altogether if they are given 7-11 7 days a week,

**Condition 92-** states that no music is to be audible within any habitable room in any residential premises in the area.

This is exactly what we are experiencing.

Music, plus patron noise can be heard within my bedroom.

They have broken this condition on numerous occasions to date.

How is this condition is to be Policed, actioned and acted on ?

In my experience it is thrust upon the neighbours to action, takes a lot of work, takes a long time and then conditions need Policing time and time again

Just stop any potential issues before they start by rejecting the modification

**Condition 101 – External speakers**

Why are external speakers allowed in the first place ?

With the close residential properties located to the south of the venue, why would you orientate the speakers to the south west. They should be oriented to the north, in the exact opposite to the direction of the residential properties to the south.

**Condition102 – Noise limiter**

How do you intend limiting the noise from the patrons ?

**Restaurant/Function Center**

Development application DA2021/0669 approved the building to be used as a restaurant.

A Function Center is a completely different use.

It is a far more intensive operation with far greater noise effects on the residents.

There are already 3 other function centers in Palm Beach, being The Dunes, Palm Beach Golf Club and Palm Beach Surf Club

Palm Beach doesn't need another function center.

This is totally unacceptable and needs to be stopped before it starts.

**CONCLUSION**

**The adverse experience from the wedding function held at The Joey on Saturday 9 March 2024 is just a view into what will happen with this venue if they are allowed to trade from 7-11 pm 7 days per week.**

**It is totally unreasonable for the nearby residents to have to suffer from noise issues from this venue operating 7 days per week.**

**The assessment conducted by GAT & Associates is flawed as Michael Stephen has not had first hand experience with the effect of the increased hours on the nearby residents**

**with noise radiating from the venue when they are holding a function and he has also not spoken to any residents to obtain their comments or experience**

**Therefore the report should be rejected**

**The application for an almost doubling of the operating hours will result in significant adverse effects to the neighbours of the venue.**

**The venue which was once a quiet daytime café will very quickly turn into an all day and late-night BAR and Function center with all of the associated adverse effects on the neighbours.**

**This proposal is totally unacceptable.**

**I request that Council reject this application in its entirety.**

**Thank You in advance for your consideration of my objection.**

Mr Stephen Jones

3 Waratah Road

Palm Beach NSW 2108

11/03/2024