

## Environmental Health Referral Response - industrial use

<b>Application Number:</b>	Mod2022/0575
<b>Date:</b>	16/11/2022
<b>To:</b>	Nick Keeler
<b>Land to be developed (Address):</b>	Lot 1 DP 216273 , 11 The Corso 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

#### General Comments

Statement of Modification, is repeated here:

Ground Floor Shop 11 The Corso Manly NSW 2095

Development Application (DA) DA2019/1535 (as modified by Mod2020/0194 and Mod2020/0613) was approved by Northern Beaches Council on 9 May 2020 for alterations and additions to an existing building including use as a bookstore and licensed small bar. This Section 4.55(1A) is seeking to modify Conditions numbered 22, 26, 28 and 30 of DA2019/1535 in relation to the use.

Condition 22 is Hours of Operation. The Applicant seeks an amendment to the Hours of Operation to enable a more flexible use of the premises that is in accordance with and encouraged by the NSW State Government's recent changes to liquor licensing laws for small bars that offer diverse services, that includes bookstores.

Condition 26 is Compliance with the Plan of Management. The amendment requires that operations must comply with the amended plan of management submitted with this application that incorporates amendments to Conditions 22, 28 and 30 as sought by the Applicant.

Condition 28 is Minors. The amendment to this condition is directly related to the variation sought for the Hours of Operation and the recent reforms to liquor licensing laws that now permit minors in small bars.

Condition 30 is Security. The Applicant seeks the requirement for a security guard be removed. In view of the alternative and lower risk business model being offered by the Applicant and that it is a new licensee with no compliance history, the Applicant requests that it have the opportunity to operate and assess its risk profile before a security guard is required.

This statement includes a description of the site and surrounding area, the proposed modifications, an assessment of the proposed modifications pursuant to Section 4.15 of the Environmental Planning & Assessment Act (EP&A Act) in view of the Statement of Environmental Effects submitted with DA 2019/1535 and consideration of the proposed modification against Section 4.55(1A) of the EP&A Act.

#### Hours and noise

The Applicant is seeking the Hours of Operation be amended to the following:

Hours of Operation are to be restricted to:

Bookstore:

Monday – Saturday: 9.00am – 12.00 midnight

Sunday and Public Holidays: 9.00am – 10.00pm

Bar:

Monday – Saturday: 12.00pm – 12.00 midnight

Sunday and Public Holidays: 12.00pm – 10.00pm

The first amendment to the Hours of Operation is to permit the bookstore to close at the same time as the bar. The closure of the bookstore prior to closure of the bar is not feasible given both uses operate from the same space within the premises.

The second amendment is the bars trading hours be restricted to 12.00pm – 12.00am Monday to Saturday and 12.00pm – 10.00pm on Sunday/Public Holidays with a minors authorisation from 12.00pm – 9.00pm daily (6.00pm – 9.00pm only in the company of a responsible adult).

Notes:

Residential premises are within the building which is of initial concern.

Despite noise levels being predicted not to be excessive there remains a risk of sleep disturbance in regard to any sudden impact noise as opposed to general background sound. Similar proposals have required anti vibration measures especially from kitchen areas. Sleep disturbance is a rising and overlooked public health issue in the community and needs to be considered.

Clean up and waste "put out" noise when patrons leave at midnight needs to be considered and the management plan shows waste "put out" prior to 10pm and not earlier than 7am.

The current Plan of Management is considered adequate.

The front doors are to be closed from 8pm to control any noise spill.

Not resubmitted, but we refer to this, is the acoustic report by Koikas Acoustics dated 13 Sept 2019 for the previous DA2019/1535 considered trading to 12 midnight - without nuisance. This was a predictive assessment and we are not aware of any verification during current operation.

The seating is restricted to 32 patrons.

The Corso is currently a busy entertainment precinct and residents are aware of this.

No complaints have been received to date for the current operation.

The application notes the potentially affected residential units are tenanted but this should not impact on our assessment.

As a book store environment the potential use as a loud party venue is greatly reduced.

Environmental Health has reviewed the Noise related implications of the proposal and supports the proposal subject to 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:**

### **ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES**

#### **Acoustic review required during operation**

Within 60 days of the issue of this consent an acoustic review report shall be carried out by a suitably qualified person to verify that the noise (and vibration) from the business operation, particularly including the additional hours, does not create a noise or vibration nuisance to any residential receiver and that where recommended improvements are required by the assessor that these have been implemented and the Plan of Management has been updated accordingly. A copy of the report and any recommendations is to be sent to Council for its records.

Reason: To ensure that with the increased night time business hours of operation residential receivers are not adversely impacted.