
From: Zack Wilson
Sent: 11/03/2024 4:57:52 PM
To: Planning Panels - Northern Beaches
Cc: Council Northernbeaches Mailbox; Adam Croft; Andrew Wiesener
Subject: TRIMMED: MOD2023/0684 - Submission
Attachments: MOD2023-0684 - Submission.pdf; MOD2023-0684 - Submission - Attachment A.pdf;

Please refer to the attached submission objecting to Mod2023/0684.

Kind regards

Zack Wilson (PIA Assoc.)
Town Planner



11 March 2024

Our Ref: GLN12163_Mod2023/0684 submission.docx

Scott Phillips
Chief Executive Officer
Northern Beaches Council
PO Box 82
Manly NSW 1655

By email: council@northernbeaches.nsw.gov.au

Dear Scott,

RE: Mod2023/0684 submission

Assessing Officer: Adam Croft

Property: Lot 298 Deposited Plan 721522, Lot 7002 & Lot 7005 Deposited Plan 1117451; 1191 & 1193 Barrenjoey Road, Palm Beach NSW 2108

GLN Planning has been commissioned by Rothmans Pty Ltd. (**Rothmans**), being the registered owner of Lot 5 in Deposited Plan 7656; 10 Waratah Road, Palm Beach NSW 2108 regarding application number Mod2023/0684 (the **Proposal**) lodged by Northern Beaches Council (**Council**) on 20 December 2023 pursuant to Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**). The Proposal seeks to amend Notice of Determination of Development Application No. DA2021/0669 (the **Consent**) which approved 'Demolition works and construction of a new restaurant, carparking and associated uses' at the site known as 'The Joey' (formerly known as the 'Boathouse Palm Beach'). The associated uses approved under the Consent include a boat hire business and a seaplane character business.

It is understood the modifications proposed comprise a change to extend the operating hours. According to Councils Application for Modification Assessment Report, the Proposal does not propose any changes to the restaurant, secondary buildings or carparking on site.

As prescribed by Council's *Northern Beaches Community Participation Plan (Plan Making and Development Assessment)*, Rothmans were not notified by Council of the Proposal.

Our brief was to undertake a preliminary assessment of the Proposal and secondly, if concerns were identified, to prepare and lodge a submission with Council.

1 Tasks Undertaken

For the purposes of assessing the Proposal and preparing this submission, we have undertaken the following tasks:

- obtained a copy of all relevant documents associated with the DA from Council's Property Search website



- review of all the Proposals pertinent accompanying documents, in particular the Statement of Environmental Effects (SEE) prepared by Lance Doyle (undated)
- review of relevant planning controls
- preliminary assessment of the proposal.

2 Statutory Controls

The following Environmental Planning Instruments and Development Control Plan are relevant to the assessment of the Proposal:

- EP&A Act
- Environmental Planning and Assessment Regulation 2021
- *Pittwater Local Environmental Plan 2014 (LEP)*
- Pittwater 21 Development Control Plan 2004 (as amended 18 January 2021)

Our assessment has identified several issues with the Proposal which would have direct potential impacts on the residents and property of Rothmans and indirectly contribute to the conclusion that the Proposal is not acceptable in its current form. Consequently, we document these concerns in our submission below.

3 Characterisation of Use

Under the Consent, the Northern Beaches Local Planning Panel approved 'Demolition works and construction of a new restaurant, carparking and associated uses, including a Voluntary Planning Agreement'.

Pursuant to the *Standard Instrument – Principal Local Environmental Plan 2006 (Standard LEP)*, **restaurant or café** means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided, but does not include the preparation and serving of food and drink to people that occurs as part of—

- (a) an artisan food and drink industry, or
- (b) farm gate premises.

Note—

Restaurants or cafes are a type of food and drink premises—see the definition of that term in this Dictionary.

Pursuant to the LEP, *Restaurants or cafes* are permitted with Consent within the RE1 Public Recreation zone, however, are prohibited in the C2 Environmental Conservation zone.

Based on the above definition, it is considered the existing operations of The Joey, and the proposed modifications go beyond what is defined as a restaurant and are better categorised as a function centre. Pursuant to the Standard LEP, **Function centre** means a building or place used for the holding of events, functions, conferences and the like, and includes convention centres, exhibition centres and reception centres, but does not include an entertainment facility.



Importantly, in this instance, a function centre is **prohibited** in both the RE1 Public Recreation and C2 Environmental Conservation zone under the LEP.

The principal purpose of restaurants and cafes is to sell food and drinks to individuals who enter and consume the food and drinks on the premises. It is a common practice for these types of businesses to provide some form of entertainment while their patrons eat, and drink as well as operate for an ancillary purpose (i.e. weddings). However, if the intended use has a character of its own or it changes the principal use of the premises, then development consent is required, unless that use is exempt or complying development. It may not be carried out though if it is prohibited under an environmental planning instrument.

As per The Joey's website (<https://thejoeypalmbeach.com.au/weddings-events/>), The Joey offers standup cocktail **events** with exclusive use of the venue for 5 hours for up to 250 guests. If the venue is exclusively booked for events, we contend that it cannot be categorised as a restaurant.

Further, under the Consent, Council did not impose a restriction to the number of events 'The Joey' could host in any given year (i.e. limiting the days of operation to host large gatherings) as it was not intended for The Joey to operate in such capacity. Accordingly, we ask that Council clarify the intended use of The Joey and defer the determination of the Proposal until this information is made available and considered by surrounding residents.

4 Noise

As noted in the Environmental Noise Impact Assessment dated 4 October 2023 and prepared by Day Design Pty Ltd., the nearest residences to the site are located circa 600 metres to the north and south. The Assessment also notes The Joey is approved to cater for up to 152 patrons. The areas for patronage are split as 48 indoors, 30 outdoor covered deck seating and 74 on the lower deck seating area. Separately, amplified music is approved to be used within The Joey and will consist of pre-recorded music (e.g. DJ or 'iPod') or small live performances on occasions during functions throughout the daylight savings months of October to March, **only**.

As approved, the following operating hours currently apply as per Condition 96 of the Consent:

The hours of operation outside of daylight savings are to be restricted to:

- Monday to Saturday – 7.00am to 4.00pm
- Sunday and Public Holidays – 7.00am to 4.00pm.

The hours of operation during daylight savings are to be restricted to:

- Monday to Thursday – 7.00am to 4.00pm
- Friday and Saturday – 7.00am to 10.00pm
- Sunday – 7.00am to 4.00pm.

Further, as noted above, Condition 97 of the Consent restricts the maximum capacity of the restaurant to 152 patrons.

However, according to The Joey's website (refer to **Attachment A**), The Joey offers a five-hour all-inclusive **event** package all year-round, with guest arrival from 5:00pm and a 10:00pm event conclusion. Further, The Joey's website promotes itself as suitable to hosting up to 250 guests.



We contend that based on the information The Joey provides on its website, it is operating as a function centre and outside the definition of a restaurant and conditions of the Consent.

Further, Liquor and Gaming NSW requires the following in relation to noise emission from patrons inside licensed premises:

The L_{A10} noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5 Hz – 8 kHz inclusive) by more than 5 dB between 07:00am and 12:00 midnight at the boundary of any affected residence...

Notwithstanding compliance with the above, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 12:00 midnight and 07:00 am.

However, Section 5.1 of the Environmental Noise Impact Assessment modelled the noise emissions from the use of The Joey for a wedding reception as follows:

- Patrons (50% male and 50% female) talking with a loud voice (10%), talking with a raised voice (20%), talking normally (20%) and the rest are not talking or listening (50%).

Importantly, the assessment fails to consider all noise levels potentially emitted from 'The Joey' (e.g. singing as well as more than 50% of patrons emitting noise). Considering the specific environmental characteristics of the site (e.g. over Pittwater where noise levels have a greater propensity to travel greater distances (especially at night), we contend further assessment of the true nature of The Joey is warranted to ensure noise levels are not audible within any habitable rooms in any residential premises (regardless of if the window and doors are open) in any area at any time of the day.

Separately, Condition 92 of the Consent requires music and any amplified equipment including microphones to be restricted to the conditions as set out in the "Environmental Noise Impact Assessment Reconstruction of the Station Beach Boat House Palm Beach 1191 Barrenjoey Road, Palm Beach, NSW" including restriction of music between 7am and 4pm, 7 days and only Friday and Saturday between 4pm and 10pm between the months of October and March. No music is to be audible within any habitable rooms in any residential premises in the area.

Accordingly, is noted that Condition 92 of the Consent is not proposed to be modified and the relevant operational conditions will remain in force (i.e. music and amplified equipment will remain restricted between 7am to 4pm, 7 days and only Friday and Saturday between 4pm and 10pm between the months of October and March).

Finally, noting the current and proposed use of The Joey, the Environmental Noise Impact Assessment does not consider the combined effect of 152 patrons (potentially 250) leaving the site at 11pm when ambient background noise levels are lower.

5 Objector Appeal

The NSW Land and Environment Court (LEC) has jurisdiction to hear and dispose of appeals under Section 8.8 of the EP&A Act by objectors who are dissatisfied by a consent authority's determination to grant consent to an application.



An objector appeal can only be made to the Court when (inclusively):

- the development application, or an application to modify development consents, has been made to a consent authority
- the objector made a submission objecting to the development application during the assessment period
- the consent authority has given consent to the application and the objector is dissatisfied with the consent authority's determination.

6 Conclusion

We have reviewed the available documentation and have determined that there are a number of key issues that warrants raising objections to the Proposal in its current form. The proposal involves significant impacts to amenity if not properly addressed during Council's assessment and we contend Council should defer the determination of the Proposal until further information can be supplied, and a subsequent assessment be undertaken. These potential impacts have been outlined in detail above.

Should you have any questions, please do not hesitate to contact me.

Yours faithfully

GLN PLANNING PTY LTD

ZACK WILSON
SENIOR TOWN PLANNER



BAIRENJOEY BOATSHED

PALM BEACH

WEDDINGS & EVENTS

BARRENJOEY BOATSHED





BARRENJOEY BOATSHED

WEDDING & EVENT PACKAGE

Thank you for exploring the newly renovated Barrenjoey Boatshed as an option for your special day.

Our award-winning chefs and welcoming team will ensure that your event is looked after from enquiry through to your last dance of the evening.

Barrenjoey Boatshed is a truly special, iconic location and the perfect place for making lifelong memories.



THE PACKAGE

At Barrenjoey Boatshed, we offer standup cocktail style events for your special day. Our all-inclusive weddings packages start from \$250 per person.

However, if sit-down is your preferred style, please contact our events team and we will try our best to accommodate.

PACKAGE INCLUSIONS

- Exclusive use of the venue for 5 hours (5:00pm - 10:00pm)
- Food & Beverage package
- Basic florals
- Venue furniture
- Display tables (cake table / gift table)
- Coffee & Tea stations
- Air Conditioning / Heating
- In-house audio equipment
- Additional 1 hour of bump-in time
- Dedicated Events Team

CAPACITY

Barrenjoey Boatshed is suitable to host up to 250 guests for your special day.

TIMING

Barrenjoey Boatshed offers a five hour all-inclusive event package all year-round.

Guest arrival is from 5:00pm with a 10:00pm event conclusion.

If you require venue hire outside of the package times, please contact us to discuss alternative options.

HOW TO GET THERE

We recommend private vehicles or hired coaches to transport your guests to and from Barrenjoey Boatshed.

We are located in Palm Beach, part of Sydney's Northern Beaches (1 hour from Sydney CBD).

MINIMUM SPEND REQUIREMENTS

A minimum spend is required for weddings and events at Barrenjoey Boatshed:

Friday & Saturday requires a minimum spend of \$22,000.

Sunday to Thursday requires a minimum spend of \$18,000.

In the unlikely event that you are unable to meet the minimum spend required, a deficit tariff will be charged.

PARKING

Barrenjoey Boatshed is surrounded by public parking. Parking is free after 7pm.

VENDORS:

We are more than happy to assist you in selecting the perfect vendors for your event. Please see our preferred vendors list on page 11.

FOOD

50



CANAPE PACKAGE

We can assist you to curate a menu that suits your event perfectly.
Please note menus may change due to seasonal availability.

Choice of 6x Bites and 4x Substantials canapé options:

SEAFOOD

BITES

GIN CURED TROUT
avocado

KINGFISH CRUDO
citrus

TUNA TARTARE goat's
curd, mint

SUBSTANTIALS

BANANA PRAWN ROLL
brown butter

CALAMARI FRITTO
prawn emulsion

FISH & CHIPS tartare
sauce, lemon

MEAT

BITES

BEEF TARTARE
beetroot, peppercorn

TARTLET
chicken liver parfait

LAMB MEATBALL
labneh

SUBSTANTIALS

CHEESEBURGER SLIDER
boatshed sauce

PORK BELLY
chilli caramel,
horseradish cream

CHICKEN POPCORN
honey, aioli

VEGETARIAN

BITES

STRACCIATELLA
watermelon, mint

ARANCINI
mushroom, truffle

CROQUETTE
cheese, grape

SUBSTANTIALS

POTATO GNOCCHI
pesto, parmesan

ZUCCHINI FLOWER
four cheeses

EGGPLANT
miso, togarashi

VEGAN

BITES

PUMPKIN HUMMUS
celery, pepitas

TARTLET
smoked almond, pea

BEETROOT MOUSSE
macadamia cheese,
grains

SUBSTANTIALS

FALAFEL
avocado, mint

MUHAMMARA
pomegranate, pita

GUACAMOLE
fresh herbs, tortillas

DESSERT seasonal desserts will also be included.





FOOD ADD-ONS

(prices are per person at additional charge)

CHEESE & CHARCUTERIE STATION (\$18)

CHEESE

double brie
cheddar
goat's
marinated feta
blue

CONDIMENTS

wild honeycomb
dried fruit
mixed nuts
crackers
grapes
quince paste

CHARCUTERIE

prosciutto
salami
bresaola
mortadella
copacola
sopressa

CONDIMENTS

olives
cornichons
caper berries
guindillas
sourdough

OYSTER STATION (\$22)

freshly shucked oysters
bloody mary shots
mignonette
lemon

SEAFOOD STATION (\$26)


(all dishes are served cold)
kingfish crudo
tuna tartare
salmon rillette
snapper ceviche
condiments

PAËLLA STATION (\$26)

fresh seafood
chicken
chorizo
lemon

SWEET STATION (\$12)

*(in addition to seasonal desserts
already included)*
lemon tart
chocolate tart
fruit plate
basque cheesecake
tiramisu



A scenic view of a blue body of water, likely a bay or harbor, framed by out-of-focus tree branches in the foreground. Several boats are visible on the water, including a white motorboat, a sailboat with a white sail, and a larger dark-colored motorboat. The water is a deep blue-green color, and the sky is a pale blue. The overall atmosphere is peaceful and scenic.

BEVERAGE

PACKAGES include free flowing drinks from the package chosen for five hours. Wines may change due to seasonal availability.

CLASSIC

SPARKLING

Bandini Prosecco NV
Veneto Italy

WHITE

Aquilani Pinot Grigio 2022
Friuli Italy

ROSÉ

Nick Spencer Rosé 2022
Gundagai NSW

RED

Lighthand Pinot Noir 2023
Yarra Valley VIC

TAP BEER

Hahn SuperDry
Stone & Wood Pacific Ale
Heineken
Avalon Brewery Pale Ale

HOUSE SOFT DRINKS

PREMIUM

(\$90 per person at additional charge)

SPARKLING

Moët & Chandon Impérial Brut NV
Épernay France

WHITE

Aquilani Pinot Grigio 2022
Friuli Italy

Tyrell's Chardonnay 2022
Hunter Valley NSW

ROSÉ

Minuty M de Minuty 2022
Provence France

RED

Lighthand Pinot Noir 2023
Yarra Valley VIC

Collector Cherry Orchard Shiraz 2022
Hilltops NSW

TAP BEER

Hahn SuperDry
Stone & Wood Pacific Ale
Heineken
Avalon Brewery Pale Ale

HOUSE SOFT DRINKS

COCKTAILS

(\$28 per person per hour at additional charge)

JOEY'S MARGARITAS

Espolon Blanco tequila,
Manly Spirits triple sec, lime
classic | spicy | tommy's

GARDEN SPRITZ

Chandon Garden, grapefruit,
wild berry, hibiscus, soda

LIMONCELLO SPRITZ

Manly Spirits limoncello, yuzu,
prosecco, earl grey

THE JOEY ICED TEA

Belvedere Pure vodka, peach,
chamomile, soda, watermelon

MARITIME MARTINI

Manly Spirits Marine Botanical vodka,
lychee, sea grape

AUSSIE 75

Four Pillars Rare Dry gin, yuzu,
elderflower, prosecco, lemon myrtle

GOING TROPPO

Havana Club Especial rum, mango
Campari, pineapple, vanilla

ADD-ONS any of our menu wines not listed in the above packages can be purchased by the bottle at additional charge.

PREFERRED VENDORS

PHOTOGRAPHERS

<https://alexmarks.com.au>

<https://www.ripplefilm.com.au>

CELEBRANTS

<https://marryusgary.com.au>

<https://clairebelford.com.au>

<https://www.aniellabatten.com>

MUSICIANS

<https://kahunaduo.com.au>

<https://www.duanandonly.com>

VIDEOGRAPHERS

<https://www.ripplefilm.com.au>

<http://joyrideweddings.com>

STYLISTS PLANNERS

<https://www.honeylane.com.au>

<https://thefakehaus.com.au>

CAKES

<https://bygigi.com.au>



BARRENJOEY BOATSHED

