

21 November 2022

The Chief Executive Officer
Northern Beaches Council DRAFT01

Dear Sir / Madam,

STATEMENT OF ENVIRONMENTAL EFFECTS
BUCKETTYS BREWING COMPANY
Temporary use of land for 5 events per year at 26 Orchard Road, Brookvale

1 Introduction

Development consent is sought for temporary use of the land for five (5), single events per annum which involves utilisation of the existing approved *artisan food and drink industry*, albeit with an increased development footprint, increased patron numbers, and installations of a temporary nature (minor physical works).

Events of the nature proposed, outside of regular business hours, are an appropriate utilisation of the land which attract people to the Brookvale Centre and create a community atmosphere, often for a community purpose.

The land and its approved uses (including DA2022/1100) have demonstrated its capacity to host these events without adverse impacts on the local amenity. It is sought by this DA to establish five single events per annum.

Having assessed the proposal we find that it is consistent with the provisions of LEP clause 2.8, and within the environmental capacity of the property. We find that there are no statutory planning matters preventing the approval of the application.

2 Environmental Assessment

2.1 Site description and property features

The development is located at 26 Orchard Road, Brookvale. The land is legally described as Lot A in Deposited Plan 413126 and has an approximate area of 1,160m².

The site is irregular in shape with a frontage of 20.117m along Orchard Road and a depth of 50.29m. The site has an access handle at the rear which services Mitchell Road and is 20.1m in length. The subject premise (Figure 1) is within an industrial context.

The adjoining and surrounding development is characterised by warehouse units with various industrial and business uses. To the east of the subject site is a car park servicing two adjoining businesses. To the north east of the site at (23 Orchard Road) there is a motor works shop.

Development Consent DA2018/0571 was approved by Council on 17 July 2018 for use of the premise as an artisan food and drink industry.

DA2022/1011 approved single temporary events on the land involving amplified use of the property. The subject DA seeks development consent for the temporary use of the land to occur in a similar manner, but for five (5) times per annum, each time within a 24-hour period.

The temporary use resulting from DA2022/1011 approval was successful, appropriately managed, and without incidents or impacts (complaints) from neighbouring properties.

2.2 Existing Artisan food and drink industry Use

Development Application DA2020/0160 was approved by Council on 10 August 2020. It was subsequently modified under Mod2021/0439 on 8 October 2021 for:

- Use of a portion of the premises as an artisan food and drink industry.
- Associated internal fit out;
- External business identification signage;

Relevant aspects of the approved operating hours are as follows:

Taproom/Cellar Door Hours - Weekend lunch and dinner

- Saturday – Sunday (12:00pm – 4:00pm) = 130 patrons max
- Saturday – (4:00pm – 12:00am) = 200 patrons max
- Sunday (4:00pm – 10:00pm) = 200 patrons max
- Public Holidays - (12:00pm – 4:00pm) = 130 patrons max and (4:00pm – 12:00am) = 200 patrons max

Takeaway Sales

- 12:00 PM to 11:00 PM Monday to Friday
- 12:00 PM to 11:00 PM Saturday
- 11:00 AM to 10:00 PM Sunday

The approved development provides six (6) off-street, staff parking spaces located within the subject site. The land use has also obtained a consent from the adjoining site at 28-30 Orchard Rd, to use 12 (twelve) of the parking spaces within this adjoining lot's car parking area for patron use during taproom/takeaway hours.

Documents approved under Mod2021/0439

a) Modification Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA2 - Proposed Ground Floor, revision B	25 August 2021	[unknown]

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Operational Management Plan	8 May 2021	[unknown]
Operational Noise Emission Assessment	10 May 2021	Acoustic Dynamics

Documents approved under DA2020/0160

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA201 Rev.D (Demolition Ground Floor Plan)	28/05/2020	JF
DA202 Rev.D (Proposed Ground Floor Plan)	28/05/2020	JF
DA301 Rev.D (Elevations - Proposed)	28/05/2020	JF
DA302 Rev.D (Elevations and Sections)	28/05/2020	JF
DA400 Rev.D (Compliance Diagrams)	28/05/2020	JF

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BCA Compliance Audit Report	14/02/2020	PCA Services
Fire Safety Statement	25/01/2020	-
Waste Water Treatment Plan	-	Bucketty's Brew
Carpark and Driveway Certification	May 2020	ML Traffic Engin
Traffic and Parking Impact Assessment (A1916314N (1a))	May 2020	ML Traffic Engin
Contamination Assessment Report (EP143-RP01)	31 July 2020	Metech Consulti
Operational Management Plan - Amended 3.8.20	03/08/2020	Bucketty's Brew
Operational Noise Emission Assessment Rev.2	10/02/2020	acoustic dynami

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

c) The development is to be undertaken generally in accordance with the following:

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	10/02/2020	Bucketty's Brewery Pty Ltd



Figure 1 – Aerial view of 26 Orchard Road, Brookvale (Northern Beaches Council)

3 Proposed Development

3.1 Overview

This proposed development involves temporary use of the land for 5 events which involves an expansion of the approved *artisan food and drink industry* for operation during 5 events per annum.

DA2022/1100 approved an event in a similar manner to that proposed. The event occurred without complaint from neighbours and was without incident. The subject DA proposes a similar arrangement for each of the 5 events per annum.

3.2 Key aspects of the proposal

Key aspects of the proposal are described as follows:

- Preparation of the event / temporary use area from 9am on the day of the event.
- The event will include serving of an expanded range food and beverage along with entertainment, and sale of merchandise.

- The area includes all existing patron spaces (front, inside, and rear) as well as use of the access way to Mitchell Road (additional). The internal space comprises approximately 250 square metres and external space approximately 440 square metres.
- Temporary use closing time to patrons: 11:30 pm. Close-down by staff from 11.30pm to 12am.
- The event will be for up to 500 patrons.
- The site secured with existing fencing to provide two-entry points, one each on the northern (Orchard Road) and eastern sides, as marked on the event plans (Mitchell Road).
- Commissioned security to ensure a safe and orderly operating environment.
- Food will be provided on-site via 3 movable food vans as marked on the event plans.
- Live music inside the venue, as marked on the event plans.
- Temporary amenities (Portaloos) to be provided on site for the event.
- Decommissioning of the event site by 12pm on the day following the event (if it's a weekend or public holiday) or by 9am on the day following the event (if the following day is a weekday/non public holiday).

4 Statement of Environmental Effects

4.1 Overview - Matters for consideration

The following Statement of Environmental Effects considers the nature of the proposed temporary use of land and the potential impact on environmental planning grounds.

The following matters are relevant to the consideration of the proposal as set-out in S4.15 of the Environmental Planning and Assessment Act 1979.

5 Warringah LEP 2011

Planning considerations from the Warringah LEP relevant to the proposed modifications are noted and addressed as follows.

5.1 Zoning and key environmental affectations

The property is zoned IN1 General Industrial under the Warringah Local Environmental Plan 2011 as is most of the surrounding land.

Clause 2.3(2) of the LEP requires the consent authority to 'have regard to the objectives for development in a zone' in relation to the proposal. The objectives of the zone are stated as follows:

- 'To provide a wide range of industrial and warehouse land uses.*
- To encourage employment opportunities.*
- To minimise any adverse effect of industry on other land uses.*
- To support and protect industrial land for industrial uses.*

To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.

To enable a range of compatible community and leisure uses.

To maintain the industrial character of the land in landscaped settings'.

In response -

- The temporary use will be undertaken at a time during the weekend and or public holiday when most other businesses within the industrial area are not operating and therefore will not adversely impact upon neighbours.
- The proposed 5 events involve a temporary amplification of the approved and established land use which has been assessed as satisfying the zone objectives.
- The proposal will provide additional employment opportunities and support the ongoing approved land use.
- A compatible leisure related use popular with the community during recreation times of the week.

For these reasons, the proposal is assessed as being consistent with the IN1 zone objectives, Accordingly, the proposal has had sufficient regard to the zone objectives and there is no statutory impediment to the granting of consent.

5.2 LEP Clause 2.8 Temporary use of land

The subject application is made under LEP Clause 2.8 - Temporary use of land. The provisions of the clause and the manner in which the proposal addresses these provisions is addressed below:

- 1) *The objective of this clause is to provide for the temporary use of land if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental effects on the land.***

Response -

The proposed temporary use is 5 single events, with preparation and decommissioning of the event site within 24 hours that the event is scheduled. Therefore, the event does not compromise the established industrial and business functions that take place within the site and the local area during regular daytime business hours, or the future development of the land.

The existing *artisan* food and drink industry is approved on the property conditional upon satisfying various recommendations in the accompanying assessment reports. The event can mostly operate within the limitations of these reports, the following key exceptions are noted.

The DA is accompanied and supported by a detailed event specific Operational Plan of Management that addresses the relevant operational issues. A condition of consent may be included to regulate compliance with the plan.

Use of the proposed patron areas

The proposed temporary use comprises an expanded patron area of the *artisan* food and drink industry including an outside area comprising the car park as shown on the accompanying event plans.

The Development Application is accompanied and supported by a building code compliance assessment by Credwell Consulting. It states the following in relation to maintaining safe egress paths of travel for patrons.

The aggregate width of the path of travel to a public road (Mitchell Road) from the southern and eastern exits are required to maintain a width of no less than 2000mm. Any doorway/gate within the path of travel to Mitchell Road must comply with the provisions of D2.19, D2.20 and D2.21. Alternatively, a Performance Solution to ensure any lockable gates in the path of travel are kept in the open position during hours of operation may be undertaken.

The aggregate width of the path of travel to a public road (Orchard Street) provided via a path which provide access to the main entry, measured at approximately 3360mm, and is therefore deemed to satisfy the provisions of D1.6(d).

Based on the building code compliance assessment:

- The proposed patron areas are capable of accommodating the expanded patronage under the proposed event arrangements.
- The operational plan of management and development consent may be conditioned to incorporate these provisions to regulate compliance.

5.2.1 Food and beverage service

In addition to the existing service areas, temporary food and beverage vans will be provided outside, as marked on the event plans. It will facilitate orderly service of food & beverages, avoid excessive patron queuing, and assist in managing the numbers of attendees inside and outside of the building.

5.2.2 Existing and proposed bathroom amenities

A Building Code Compliance report accompanies the DA. It establishes that with the addition of 2 Portaloos to be provided on site to accommodate satisfactory bathroom amenities will meet the additional demand for the temporary use.

5.2.3 Conclusion

Given the 5 events per annum of the proposed temporary use and its relatively short duration, the proposal is not anticipated to have any significant detrimental environmental impacts.

The proposal is anticipated to have positive social and economic impacts.

Based on the above it is concluded that the proposal satisfies provision (1) of clause 2.8.

- 2) Despite any other provision of this Plan, development consent may be granted for development on land in any zone for a temporary use for a maximum period of 52 days (whether or not consecutive days) in any period of 12 months.*

5.2.4 Events per annum

Response –

- The proposed temporary use is for up to 5 events in any period of 12 months and is within the maximum limits established by cl2.8 (2) which is 52 days.
- As part of the Operational Plan Of Management, a register of events will be kept. It may be inspected upon request by authorities at any time. A condition of consent may be imposed to regulate this compliance.
- Based on the above it is concluded that the proposal satisfies provision (2) of clause 2.8.

3) Development consent must not be granted unless the consent authority is satisfied that:

(a) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Plan and any other applicable environmental planning instrument, and

Response –

The proposed temporary use will not prejudice the subsequent carrying out of development on the land.

The proposal involves decommissioning of the car parking spaces allocated to the premises and utilisation of the car parking and manoeuvring area for outdoor patronage, involving the serving and consumption of food and beverages.

The temporary use will be undertaken at a time during the weekend/ public holidays when most other businesses within the industrial area are not operating.

Based on the above it is concluded that the proposal satisfies provision 3(a) of clause 2.8 and will not prejudice the subsequent carrying out of development on the land.

Development consent must not be granted unless the consent authority is satisfied that:

(b) the temporary use will not adversely impact on any adjoining land or the amenity of the neighbourhood, and

Response –

The existing artisan food and drink industry and car parking provision

The events involve the outdoor use of the car parking area (that has provision of 5 car spaces) and the resulting reduction in on-site car parking for the time of the event. In support of this deficiency the following key points are noted:

- The temporary use will be undertaken at a time during the weekends/ public holidays when most other businesses within the industrial area are not operating.

- The close proximity of the site to the various bus routes operating along Pittwater Road.
- Operation of the event outside of regular business hours being 9-to-5 Monday to Friday.
- The availability of on street parking during this time of the week being after 2 pm on Saturday when it is reasonable to expect that businesses within the industrial area are closed or at reduced operating capacity.
- Being a licensed event, attendees will be encouraged to carpool or catch other forms of public transport rather than utilising private vehicles. This message will be communicated on promotional material for the events.

Noise

The proposal has appropriately considered the provisions of DCP Part D3 - Noise. The proposed temporary use of the land has considered the potential for acoustic impacts on the neighbouring properties and any sensitive nearby land uses. The proposal satisfies the DCP's objectives as provided below:

- The property is located within a long established and built-up general industrial zone.
- The premise is appropriately separated from sensitive residentially zoned land, the nearest being approximately 200m to the south of the site.
- The location of the premises is compatible with its context noting the industrial nature of adjoining and nearby business uses (along with their hours of operation) within the industrial zone.
- The NSW Industrial Noise Policy establishes limitations for the types of noise and the hours that noise is unacceptable. Up until 10pm is regarded as daytime hours within which it is acceptable for some audible noise to be heard from other properties. The proposed temporary use until 11pm for five events per annum on weekends or public holidays in this location is considered a reasonable proposal worthy of support.
- The proposal involves a 'family friendly' event. It does not involve a place of 'late night' entertainment, the proposed temporary use will close at 11pm; the hours of operation will not facilitate late night revelry or anti-social behaviour.
- The proposed patronage associated with the temporary event will not involve a significant change to the existing nature of operations but enable a reasonable intensification of these operations for five single events within a 12-month period.
- Based on the above it is concluded that the proposal satisfies provision 3(b) of clause 2.8.

Waste

The proposal has appropriately considered waste management for the events, noting:

- Any waste generated from the event will be stored in 500L bins kept within the storage space to the rear of the site, as approved in the original DA.
- Waste will be collected through the businesses private contractor on the morning following the event.

(c) the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and

Response –

The following characteristics are noted:

- The proposal will involve the installation of minor temporary structures within a developed area (concrete surfaced carpark) of the property and utilisation of the existing approved Artisan food and drink industry facilities.
- The land does not contain known sensitive environmental attributes and the proposal will not increase the risk of natural hazards that may affect the land.
- Based on the above it is concluded that the proposal satisfies provision (b) of clause 2.8.

(d) at the end of the temporary use period the land will, as far as is practicable, be restored to the condition in which it was before the commencement of the use.

Response –

- Decommissioning of the event site by 12pm on the day following the event (if it's a weekend or public holiday) or by 9am on the day following the event (if the following day is a weekday/non public holiday).
- The land owner and applicant will ensure that the site is restored to the condition in which it was before the commencement of the use.
- Based on the above it is concluded that the proposal satisfies provision (b) of clause 2.8.

4) Despite subclause (2), the temporary use of a dwelling as a sales office for a new release area or a new housing estate may exceed the maximum number of days specified in that subclause.

Response – Not applicable to the subject matter.

5) Subclause (3) (d) does not apply to the temporary use of a dwelling as a sales office mentioned in subclause (4).

Response – Not applicable to the subject matter.

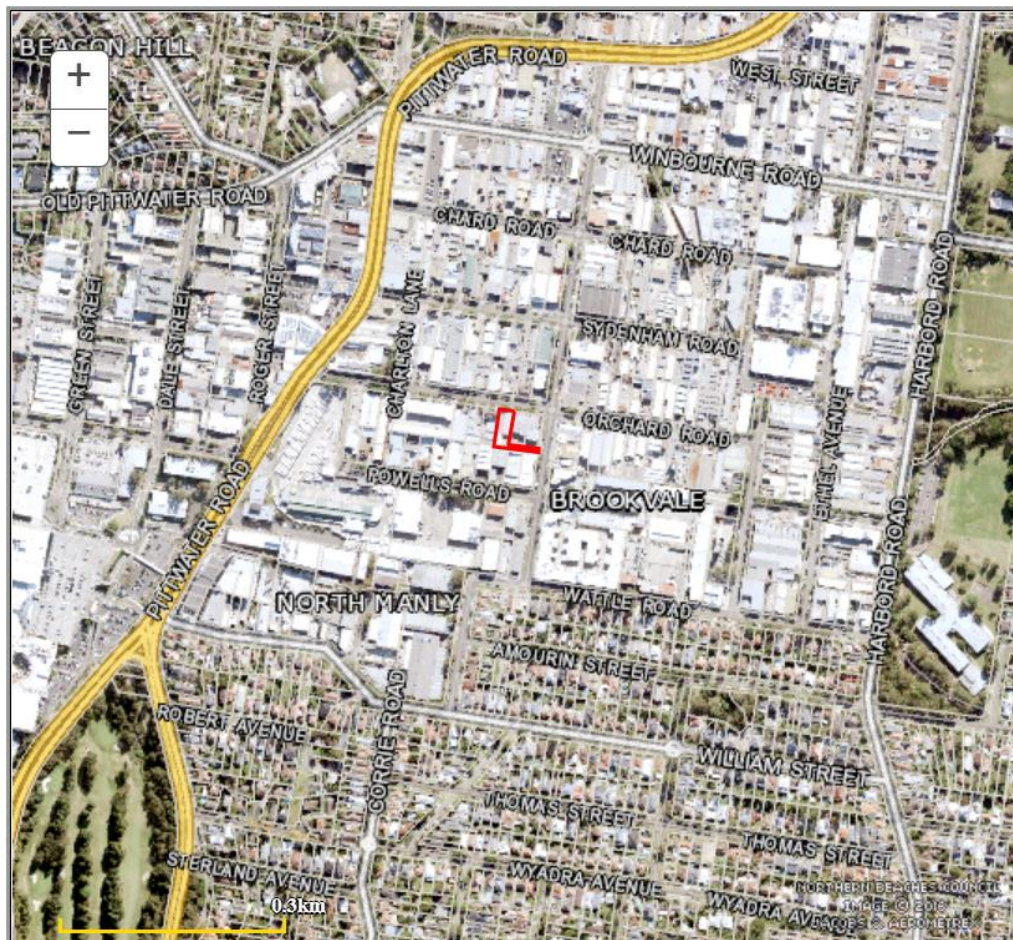


Figure 4 - The premise is separated from sensitive residential land

6 Section 4.15 Matters for Consideration

The proposal has been assessed having regard to the matters for consideration pursuant to S4.15(1) of the Act, and to that extent, Council can be satisfied that:

- The site is appropriate for accommodating the proposed temporary land use. The amenity considerations in relation to noise are satisfactory. Appropriate transport, access and car parking provision is available. There are no unreasonable adverse environmental impacts arising from the proposal.
- The proposed temporary use is for up to 5 events in any period of 12 months and is within the maximum limits established by cl2.8 (2) which is 52 days.
- The proposal is permissible and consistent with the objectives of the zone, pursuant to the LEP. The proposal satisfies the relevant planning provisions relating to the site.
- The proposal is anticipated to not result in any significant unacceptable impacts that limit the use or enjoyment of nearby or adjoining land.
- Given the site's location and established function, the site is assessed as being entirely suitable for the proposed temporary land use.

7 Conclusion

The proposed temporary land use of the land at 26 Orchard Road, Brookvale, for 5 single events per annum represents an appropriate temporary intensification of the approved *artisan* food and drink industry on the site.

The proposal is not anticipated to have any significant detrimental environmental impacts and offers potential positive social and economic impacts. It is our considered opinion that the proposed temporary land use is satisfactory and is worthy of being approved by Council.

Yours sincerely,



Michael Haynes
Director - BBF Town Planners

Annexure 1 – excerpt of the event site plan

