

**STATEMENT OF ENVIRONMENTAL
IMPACTS PITTWATER RSL CLUB, MONA
VALE, SYDNEY**

**REQUEST FOR
MODIFICATION**

September 2023

Introduction

Organic Food Market (OFM) have been operating a market in the car park of the Pittwater RSL since September 2019. A consent was granted for a trial period of 18 months with leave to apply for an extension prior to six months before the DA's expiry. In 2021 an application was made and granted extending the DA to 1 September 2024.

The original application and all subsequent applications were strongly opposed by a small group of neighbors. Throughout the initial trial period this small group continued to be highly hostile, filming our activities, complaining to Rangers and even on one occasion coming on site and pushing an employee of the RSL to the ground. In the more recent period, this situation has somewhat settled down with only one individual (known to Council) seeming to remain in objection to the market. Throughout the entire period of operation of the market we have complied with all time restriction placed upon the market and have enjoyed good relations with the Rangers and the support of a large number of customers of the market and the market traders as well as the RSL.

The most recent review (Mod2021/0047) extended the DA but with an expiry date giving as a reason *To limit the activity to a temporary use of the land.*

Acoustic Report

We have presented evidence with this request for a modification that demonstrates that any noise created by the market cannot be heard above the ambient noise level, see Acoustic Report which accompanies this application.

The report prepared by Ian McGrath concludes:

- The noise data with direct observation of the markets operation indicates that any noise generated by the operation of the Organic Markets within 22 Jubilee Avenues is low to inaudible at the nearest sensitive receiver 185 Warriwood Rd and across Foley Street masked by the movement of through local traffic, including a bus route, on the crossroad junction of Jubilee Ave and Foley Street.
- The entry and exit by the vendors are orderly and brief. The behavior of the patrons inside the markets is observed as mingling as opposed to hustle and bustle, therefore low noise emissions.

Traffic and Parking

Organic Food Markets have consulted with Greys Australia and has been advised that the report prepared for the previous DA extension is still valid. A copy of the report accompanies (see Traffic and Parking Report). It comments (among other things) that:

- Bump-in traffic extends along Jubilee Avenue to Ponderosa Parade. The queue disappears in about five minutes in the morning. No action would be required as Stall Holders are required to enter the market in an orderly manner to avoid safety hazards.
- No safety hazards to vulnerable road users were observed during the site visit.
- Ample parking spaces are always available within RSL Club premises and on-street parking usage by some patrons is a personal choice which can only be rectified/enforced via application of regulatory or temporary signs on market days.

Expiry Date and Number of Markets Per Year

While it is not unusual for end dates, with leave to reapply, to be granted to markets and similar temporary events it is not a requirement.

In *Marshall Rural Pty Limited v Hawkesbury City Council* [2015] NSWLEC 197; it was argued (inter alia) with respect to the ‘temporal limitation’ ... cl 2.8 permitted development consent for a maximum period of 12 months from the date of consent. The Court, however, held that the ordinary, obvious reading of cl.2.8 does not impose a second limitation in addition to the number of days in any period of 12 months and that it was open to the consent authority to grant a consent pursuant to cl 2.8 for any nominated limiting period or indeed one that was open-end.

The obligation to apply for extensions from time to time is onerous and costly and raises questions among the traders and customers of the market as to whether or not it continue. This market has been established for a number of years and has demonstrated that it causes no nuisance to neighbours either from noise or from traffic generation. The market is well supported by the public. We would ask the consent authority to grant an open- ended DA but failing this that it be extended to expire in five years from the date of this new consent with leave to re-apply.

In addition the market is a weekly market and normally would have applied to trade at the RSL each Sunday during the year. However, currently the Northern Beaches has three legacy LEPs: Pittwater, Warringah and Manly and the maximum number of days a temporary event may be granted for are 42, 26 and 52 in each period of 12 months respectively. It is thought that a new LEP will be adopted for the whole of the Northern Beaches area and that it will include a limit of 52 times in any 12 months. It is oppressive to insist the applicant applies once again to be able to hold the market up to 52 times in any 12 month period in the next couple of year when this application is being considered now. The applicant would ask the consent be phrased in terms which allow the market to be held up to 52 times a year if the applicable LEP allows this.

Conclusions

It is clear the market has been subject to a continuing and totally unjustified campaign by a few neighbours and the professional advice is that this is totally without foundation:

- The contribution to sound in the area is dwarfed by other noise already present from the use of the local roads and does not contribute to any reduction in the noise amenity.
- Traffic is managed and parked effectively and has minimal impact on the local roads.

We would ask that the provisions relating to a trial period Condition 10) now be removed as clearly the market has been trialed, is working very satisfactorily and in harmony with the local

community. We request the DA to run with no set expiry date.

In addition we would ask for the maximum number of days per year be phrased as 'Market events may be increased to the maximum number of days provided in any relevant LEP from time to time from the current approved maximum of 42.' Markets are basically a weekly event and give the expense (over \$25,000) that the applicant has had to incur owing to the totally unjustified complaints it has faced it would be appropriate to assist them by not incurring the extra expense to apply once again when the new LEP for the Northern Beaches is adopted.

We hope the consent authority can place the market in a position to operate into the future. It has proved invaluable in discharging the essential service of supplying food to the area and creating jobs.