

Environmental Health Referral Response - commercial use

Application Number:	DA2021/1541
Date:	03/11/2021
To:	Clare Costanzo
Land to be developed (Address):	Lot 21 DP 226287 , 20 Albert Street FRESHWATER NSW 2096

Reasons for referral

This application seeks consent for one or more of the following:

- Food premises, or
- Backpackers/Boarding house, or
- Mortuary, or
- Skin penetration, acupuncture, tattoo, beauty salon, or
- Public pool

And as such, Council's Environmental Health and Protection officers are required to consider the likely impacts.

Officer comments

General Comments

New Information – Additional Review 2 November 2021

The applicant has made some amendments and provided further information in relation to concerns raised in Environmental Health's Referral Response on 14 September 2021.

Some of the amendments/further information includes:

- Removing the outdoor seating area and therefore reducing noise concerns on surrounding receptors.
- Altering the proposed hours of operation to the following:
 - Monday: 12 Noon - 10pm
 - Tuesday: 12 Noon – 10pm
 - Wednesday: 12 Noon – 10pm
 - Thursday: 12 Noon – 12 Midnight
 - Friday: 12 Noon – 12 Midnight
 - Saturday: 12 Noon – 12 Midnight
 - Sunday: 12 Noon – 10pm
- Amended plans indicate additional sanitary facilities located upstairs.
- The applicant has provided details on odour control from the mechanical ventilation. This includes a system is designed with a single ESP (Electrostatic Precipitator) to help control odours and particulates from cooking.

The acoustic report and the plan of management provide a number of different maximum music levels

based on the time of day. Providing different music levels based on time of day and scenario will be difficult to effectively manage during operations. In order to maintain acoustic amenity, Environmental Health recommend that amplified music does not exceed a maximum output 65dB(A) when measured at any point inside the premises and that an electronic limiter be fitted. The limiter is to be installed in a tamper proof enclosure (or in the case of a DSP based limiter) with no access to the limiter controls by staff.

Furthermore, in a referral response from NSW Police they have recommended that due to the location and licence type, trading hours be restricted to 11:30am to 10:00pm Monday to Sunday. If this hours are adopted this will further reduce acoustic concerns.

Recommendation

Supported - subject to conditions

Planner Comment:

The proposed operating hours have been conditioned in accordance with the recommendations from NSW Police to ensure a high level of residential amenity is maintained. Any proposed changes to the operating hours should the development application be determined as approved will be subject to a separate modification application.

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 Health and Protection Conditions:

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

Plans of Kitchen Design, construction and fit out

Prior to any Construction Certificate (CC) being issued, detailed plans that demonstrate compliance with Standard 3.2.3 of the Australian and New Zealand Food Standards Code, the Food Act 2003 and Australian Standard AS 4674 'Design, construction and fit out of food premises', must be submitted to and approved by the Certifying Authority. These plans are to be prepared by a suitably qualified person.

The plans must detail adequate provision for storage including separate storage of food, equipment, chemicals and personal belongings.

Reason: To ensure that the Food premise complies with the design construction and fit-out requirements.

Plans of Mechanical ventilation

Prior to any Construction Certificate (CC) being issued, detailed plans that demonstrate compliance with the Australian Standard (AS) 1668.2 "The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings", must be approved by the Certifying Authority for any cooking equipment with an individual or combined power rating level that triggers the requirement for mechanical ventilation under AS1668.2 including any deep frying equipment.

Reason: To ensure that the design, construction and installation requirement for mechanical ventilation

complies with the Australian Standard 1668.2.

Plan of Management Update

An updated Plan of Management is to be prepared to the satisfaction of Councils Environmental Health Team and the Principal Certifying Authority. Updates to the Plan of Management are to include:

- Updates based on approved trading hours; and
- That all speakers or any sound equipment used as part of the development, must not exceed an output 65dB(A) when measured at any point inside the premises. An electronic limiter with a maximum output of 65 dB(A) must be installed at all times. The limiter is to be installed in a tamper proof enclosure (or in the case of a DSP based limiter) with no access to the limiter controls by staff.

The updated Plan of Management is to be submitted to Council for review and approval by Councils Environmental Health Team.

Reason: To maintain amenity of the surrounding area.

Noise - Design of Mechanical Plant

Prior to the issue of a Construction Certificate, the design, specifications and location of the mechanical exhaust fan are to be provided to the Principal Certifying Authority. An acoustic assessment of the proposed mechanical exhaust fan is to be undertaken by a suitably qualified professional such as an acoustic engineer to determine if the proposed exhaust will meet the recommendations within the Acoustic Report prepared by Pulse White Noise Acoustics Pty Ltd dated 26 February 2021 (Reference 210020 – 20 Albert Street, Freshwater – DA Acoustic Assessment – Rev 2).

Any design recommendations made by the consultant must be implemented into the plans prior to issuing the Construction Certificate in order to achieve compliance with noted conditions of this consent.

Details demonstrating compliance are to be submitted to the satisfaction of the Principal Certifying Authority.

Reason: To maintain amenity of the surrounding area.

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

Registration of Food Business

The food business must be registered with the Appropriate Regulatory Authority, prior to Occupation Certificate being issued.

Reason: Food premises are required to be registered with the Appropriate Regulatory Authority.

Acoustic Report Certification

Prior to any occupation certificate being issued, a further acoustic assessment is to be undertaken by a suitably qualified professional such as an acoustic engineer to confirm compliance with recommendations within the Acoustic Report by Pulse White Noise Acoustics Pty Ltd dated 26 February 2021 (Reference 210020 – 20 Albert Street, Freshwater – DA Acoustic Assessment – Rev 2) and compliance with any relevant acoustic conditions of the consent.

Any recommendations made by the consultant must be implemented prior to issuing the Occupation

Certificate in order to achieve compliance with noted conditions of this consent.

Details demonstrating compliance are to be submitted to the satisfaction of the Principal Certifying Authority.

Reason: To protect the acoustic amenity of neighbouring properties.

Kitchen Design, construction and fit out of food premises certification

Prior to the issuing of any interim / final occupation certificate, certification is to be provided to the Principal Certifying Authority by a suitably qualified person demonstrating that the design, construction and fit out of food premises kitchen is compliant with the requirements of AS 4674 Design, construction and fit out of food premises.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To ensure that the kitchen complies with the design requirements.

Mechanical Ventilation certification

Prior to the issuing of any interim / final occupation certificate, certification is to be provided from the installer of the mechanical ventilation system that the design, construction and installation of the mechanical ventilation system is compliant with the requirements of AS1668 The use of mechanical ventilation and that the odour controls within the Odour Plan prepared by Ace Ventilation (reference: Project 20 Albert Street Freshwater) have been implemented.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To ensure that the mechanical ventilation system complies with the design requirements.

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

Compliance with the Plan of Management

The requirements of the approved Plan of Management are to be fully implemented in perpetuity from the issue of any interim / final occupation certificate.

Reason: To protect the amenity of the surrounding area.

Amplified Music

All speakers or any sound equipment used as part of the development, must not exceed an output 65dB(A) when measured at any point inside the premises. An electronic limiter with a maximum output of 65 dB(A) must be installed at all times. The limiter is to be installed in a tamper proof enclosure (or in the case of a DSP based limiter) with no access to the limiter controls by staff.

Reason: To protect surrounding residence from any noise generated by the operation of the development.