

Environmental Health Referral Response - industrial use

Application Number:	Mod2018/0318
To:	Claire Ryan
Land to be developed (Address):	Lot 1 DP 859455 , 2 West Promenade 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

Current condition :

"ANS15

The premises must comply with the following:

(a) The LA10* noise level emitted from the premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz-8kHz inclusive) by more than 5dB between 7:00am and 12 midnight at the boundary of the property

(b) The LA10* noise level emitted from the premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz-8kHz inclusive) between 12 midnight and 7:00am at the boundary of the property

(c) Notwithstanding compliance with the above, the noise level from the premises shall not be audible within any habitable room in any residential premises between the hours of 12 midnight and 7:00am

(d) The LA10 noise level emitted from the premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz-8kHz inclusive) by more than 3dB when assessed indoors at any occupied commercial premises whilst that premises is in operation

*(for the purpose of this condition, the LA10 can be taken as the average maximum deflection of the noise emission from the premises).

Reason: To protect the acoustic amenity of neighbouring properties"

The applicants Solicitor has made a submission that clauses (a) and (b) above - are outside of what council can reasonably and lawfully require.

They have also pointed out that the likely, if affected, residence (nearest residential receiver) is some distance for the noise source and the requirement relating to the applicants own boundary as the assessment location is unnecessarily onerous.

The condition was possibly added by the previous Manly Council officers as a catch all for when a future development of a residential nature may reasonably occur beside a noise source. At that time of development and occupation a residential receiver would be entitled to complain if the noise was excessive although the source business may have received previous approval. The condition would have ensured the "noise source" would not become a complaint issue requiring action by Council and the "noise source" premises.

As the solicitors letter is correct in this case the condition "ANS15" should be withdrawn and a new condition added in its place:

New condition:

The use of premises must comply with the following:

(a) The LA10* noise level emitted from the premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz-8kHz inclusive) by more than 5dB between 7:00am and 12 midnight at the boundary of any residential receiver.

(b) The LA10* noise level emitted from the premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz-8kHz inclusive) between 12 midnight and 7:00am at the boundary of any residential receiver.

(c) Notwithstanding compliance with the above, the noise level from the premises shall not be audible within any habitable room in any residential premises between the hours of 12 midnight and 7:00am

(d) The LA10 noise level emitted from the premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz-8kHz inclusive) by more than 3dB when assessed indoors at any occupied commercial premises whilst that premises is in operation

*(for the purpose of this condition, the LA10 can be taken as the average maximum deflection of the noise emission from the premises).

Reason: To protect the acoustic amenity of neighbouring properties”

Recommended Environmental Investigations Conditions:

Nil.