



northern  
beaches  
council

## MEMORANDUM

**DATE:** 20 February 2024

**TO:** Northern Beaches Local Planning Panel (NBLPP)

**CC:** Peter Robinson, Executive Manager Development Assessment

**FROM:** Nic England, Planner

**SUBJECT:** Item 4.1 DA2023/0368 - 1/9-15 Central Avenue Manly & 9-15 Central Avenue Manly, Fit out and use of the courtyard for the seating of 100 patrons, operating from 8.00am to 10.00pm

### **Background**

The purpose of this memo is to inform the Panel of suggested amendments made by the applicant to the wording of conditions of consent nos.21 (Noise Management) and 24 (Hours of Operation). It should be noted that the applicant's request references condition no.17 in regard to Noise Management, when the correct reference number is condition 22.

These requested amendments are discussed in detail below:

### **Noise Management Condition**

Condition No.21 Noise Management prepared by the Environmental Health team contained in the Supplementary Report currently reads:

#### **21. Noise Management**

Capacity of the outdoor courtyard is limited to 100 patrons. Outdoor courtyard to only operate and be occupied until 10:00pm.

All external doors must be closed when live music or amplified music is played inside. No access to the outdoor courtyard area after 10:00pm every night.

Reason: To ensure acoustic compliance in an operational situation.

The applicant has requested that consideration be given to permitting live music and/or a DJ to perform on the premises during day time / early evening periods with the doors to the courtyard being open.

As such the applicant proposes alternate wording to Condition No.21 Noise Management, which is suggested to be amended as follows (strikethrough for deleted and red text for additional wording):

*Capacity of the outdoor courtyard is limited to 100 patrons. Outdoor courtyard to only operate and be occupied until 10:00pm.*

*All ~~Rear~~ external doors must be closed **at 8.00pm** when live music or ~~DJ amplified music~~ is played inside.*

*No access to the outdoor courtyard area after 10:00pm every night.*

Comment: Council's Environmental Health Officer was consulted on this suggested amendment. In principle, the officer agrees to this modified condition, with a preference that the wording refer to "the" or "all" rear external doors between the restaurant and the courtyard are closed, to ensure compliance with the applicant's noise report that suggest that all doors be closed. As such the revised condition that enables live music or a DJ would read:

#### **21. Noise Management**

*Capacity of the outdoor courtyard is limited to 100 patrons. Outdoor courtyard to only operate and be occupied until 10:00pm.*

*The rear external doors to the courtyard must be closed at 8.00pm when live music or DJ is played inside.*

*No access to the outdoor courtyard area after 10:00pm every night.*

*Reason: To ensure acoustic compliance in an operational situation.*

#### **Hours of Operation Condition**

Condition No.24 Hours of Operation as recommended reads as follows:

#### **24. Hours of Operation**

The hours of operation are to be restricted to:

Monday to Friday – 8.00am to 10.00pm

Saturday – 8.00am to 10.00pm

Sunday and Public Holidays – 8.00am to 10.00pm

Upon expiration of the permitted hours, all service (and entertainment) shall immediately cease, no patrons shall be permitted entry and all customers on the premises shall be required to leave within the following 30 minutes.

Reason: Information to ensure that amenity of the surrounding locality is maintained.

The applicant has suggested this condition to be reworded as follows (see inserted and underlined):

## **24. Hours of Operation**

*The hours of operation for the outdoor courtyard are to be restricted to:*

- *Monday to Friday – 8.00am to 10.00pm*
- *Saturday – 8.00am to 10.00pm*
- *Sunday and Public Holidays – 8.00am to 10.00pm*

*Upon expiration of the permitted hours, all service (and entertainment) shall immediately cease, no patrons shall be permitted entry and all customers on the premises shall be required to leave within the following 30 minutes.*

*Reason: To ensure that amenity of the surrounding locality is maintained.*

Comment: The applicant has requested this in order that it does not affect the existing consent for the restaurant, which permits operations until midnight. Condition No.ANS01 of consent 684/99 specifies that the “internal section” of the restaurant operates between 8.00am and midnight, seven (7) days a week. The suggested wording offers clarity on the appropriate hours of operation for different parts of the premises and this suggestion is considered acceptable.

## **Conclusion**

The suggested amendments by the applicant are considered acceptable and consistent with the intent of the original conditions as recommended, subject to a minor wording change as detailed above.

## **Recommendation**

That the following conditions be amended to read as follows:

### **21. Noise Management**

*Capacity of the outdoor courtyard is limited to 100 patrons. Outdoor courtyard to only operate and be occupied until 10:00pm.*

*The rear external doors to the courtyard must be closed at 8.00pm when live music or DJ is played inside.*

*No access to the outdoor courtyard area after 10:00pm every night.*

*Reason: To ensure acoustic compliance in an operational situation.*

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*Reason: To ensure that amenity of the surrounding locality is maintained.*