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## MEMORANDUM

**DATE:** 29 June 2020

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

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

**FROM:** Anne-Marie Young, Principal Planner

**SUBJECT:** MOD2020/0119, Item 3.4 – 133-139 Pittwater Road, Manly

**REFERENCE:** Amended conditions

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Dear Panel Members,

Please find the following changes for consideration:

Following a review the report and recommendations for item 3.4 it is recommended the conditions be modified to simplify the wording, correct numbering and add additional conditions to address issues relating to graffiti and lighting.

### Amendment to condition numbering

The numbering of the conditions shall read:

Condition 27 (a) Hours of Operation (currently referenced as condition 27)

Condition 27 (b) Trial period (currently referenced as condition 27 (c) Probationary period)

### Condition 27 (b) Trial period

Condition 27 (c) be amended to condition 27 (b). The use of the words '**probationary**' and '**trial**' are both used, and to avoid confusion the conditions should only reference the word '**trial**'

With the exception of this change of word the condition remains the same and will read:

### Condition 27 (b) **Trial** period

The hours of operation 6am to 12 am (midnight) seven days per week are subject to a **trial** period of 12 months from the commencement of this consent ("the **trial** period").

(1) 24 hours prior to commencement of this development consent, the applicant must notify the Executive Manager Development Assessment of Northern Beaches Council in writing of its intention to commence the modification consent so that the **trial** period may be calculated.



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(2) During the **trial** period the applicant must engage a suitably qualified independent acoustic consultant to test and report on whether the noise at the nearest residential receptors meet the EPA Noise Policy for Industry maximum noise level event assessment noise levels of LAFmax 52 dB(A) or the prevailing RBL plus 15 dB, whichever is the greater.

The testing is to be conducted at the following testing locations:

- Outside of the rear first floor window at 141 Pittwater Road, Manly
- 148 Pittwater Road, Manly
- 150 Pittwater Road, Manly
- 152 Pittwater Road, Manly
- 129 Pittwater Road, Manly
- 10 Pine Street Manly, and
- 15 Pine Street, Manly

In the event that access for undertaking the acoustic testing is denied by an adjoining owner, the Applicant must demonstrate, in writing to the Executive Manager Development Assessment of Northern Beaches Council that all reasonable steps have been taken to obtain access.

(i) The testing is to be conducted once each quarter (each 3 months) during the **trial** period with a final (fourth) test being conducted on the 12 month anniversary of the operation.

(ii) The results of each test are to be submitted to the satisfaction of Northern Beaches Councils Environmental Health Team within 48 hours after each respective test is conducted.

(iii) At the conclusion of the **trial** period if any two tests at a testing location fail to meet the EPA Noise Policy for Industry maximum noise level event assessment noise levels of LAFmax 52 dB(A) or the prevailing RBL plus 15 dB, whichever is the greater at the testing location, the applicant shall be deemed to have failed its period of probation and the hours of operation of the service station shall under this consent be as follows: 7 AM to 10 PM Sunday to Wednesday and 7 AM to 12 AM (midnight) Thursday to Saturday.

Reason: to ensure that the hours of operation of the use meet the EPA Intrusive Noise Targets.

Condition 27 (b) Trial period (currently referenced as condition 27 (c) Probationary period)

Condition 27 (c) be amended to be renumbered condition 27 (b).

#### Plan of Management

On the 15 June 2020, the Applicant submitted a draft Plan of Management (the Plan). The Plan addresses security issues and incident management but fails to provide detail on operational management procedures / detail required to maintain the amenity of surrounding area with respect of issues relating to noise, light spill, removal of graffiti, fumes and odours.

In addition, the delivery and waste collections times quoted in the Plan are inconsistent with the current conditions of consent, namely condition 33 of DA213/2017 which restricts deliveries to occur between 7.00am and 8.00pm weekdays and 8.00pm and 8.00pm weekends and public holidays.



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On 28 June 2020, the Applicant submitted a revision to the Plan of Management which correctly references the approved delivery times. The Applicant notes that in respect of varying the operational conditions, the Plan will be updated in line with any approval that may be received. The following reference to review process is contained in page 4 of the Plan.

*"The Plan of Management shall be reviewed annually or as agreed with, and in liaison with Council to update and incorporate any operational or procedural changes deemed necessary to improve the operation of the Site and reduce Incidents from occurring."*

The update Plan has been reviewed and given that it lacks any details on the operational measures required to address issues relating to noise, lighting, removal of graffiti, fumes and odour it has been assessed as not being acceptable. It is acknowledged that the Applicant has agreed to amend the Plan to include any operational condition that may be imposed should the Panel decide to approve the application.

Condition 27 (c) is therefore still relevant, an amended Plan is required to be submitted and approved by the Executive Manager of Development Assessment. The amended plan shall include all operational measures required to protect amenity the amenity of the surrounding area, including any measures relating to condition of the consent, should the application be approved.

#### Light Spill Assessment Report

On 15 June 2020, the Applicant submitted an Electrical Service Plan that provides details of the light calculations within the site. The Applicant notes that the Plan confirms that the lighting complies with Australian Standards AS/NZS 4282:2019 control of the obtrusive effects of outdoor.

The Plan has been reviewed by Council's Health Unit who confirm that a report is required which provides a conclusion and recommendations for controlling light spill to surrounding properties. It is noted the Plan confirms that the high level lights adjacent to the tyre pump station on the western boundary to Smith Lane have a lux of 190 and 195 respectively.

Condition 27 (d) shall remain in place, a Light Impact Assessment report shall be submitted and approved by the Council's Environmental Health Team. The report shall include a conclusion and recommendations to minimise light spill to surrounding area. The recommendations shall be included in the final Plan of Management.

In addition, a new condition is recommended requiring the two high level lights adjacent to the tyre air pressure station on the western boundary be turned off between 7pm and 7am. These hours are consistent with the recommended operating hours for the tyre air pressure station and will help minimise light spill to the neighbouring residential properties.

The additional condition reference No. 27(d) **(i)** shall read:

***(i) The two high level lights adjacent to the tyre air pressure station on the western boundary shall be turned off when the station is not in use, i.e. between the hours 7am and 7pm 7 days a week.***



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Condition 27 (g) Acoustic wall

It has been recommended that the condition be amended to include a requirement for the acoustic wall to be treated with an anti-graffiti coating. It is therefore recommended that the condition 27 (g) be amended to include part (v) which will read:

***(v) The acoustic wall shall be treated with an anti-graffiti coating.***

**SUMMARY**

This information is provided for consideration of the Panel.

\*Note: the amended conditions No 27 (c), (d) and (g) are in ***bold and italics***: