

4 October 2016

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Fiona Gibson
Department of Planning and Environment
GPO Box 39, Sydney NSW 2001

By email: fiona.gibson@planning.nsw.gov.au

Dear Fiona

Submission in response to section 75W Application to vary Major Project Approval MP08_0241

Background

I confirm that MITSA Pty Ltd is the owner of the commercial building located at 80 Mount Street, North Sydney (Lot 1 DP566189). Propertylink is the parent company of MITSA and I am authorised to make this submission on MITSA's behalf. We purchased 80 Mount Street on 31 August 2016.

Our property adjoins the property at 90 Mount Street, North Sydney (Lot1 DP 702144) (**the Site**), which is the subject of Major Project Approval MP08_0241 (**MPA**).

The owner of the Site, Laing O'Rourke, has applied under section 75W to modify the MPA including by an extension of the construction hours permitted by the MPA.

Since acquiring the 80 Mount Street, MITSA and our tenants at 80 Mount Street, have been subjected to constant and significant issues stemming from Laing O'Rourke's breach of the MPA noise requirements. In these circumstances, the Department has agreed for us to make a late submission in response to the modification application.

We strongly oppose any extension to the construction hours on the Site, and rather at this time encourage the Department to consider imposing restrictions on the Site due to what we consider gross interference with the amenity of the precinct. The reasons for this are set out below.

Acceptable noise

The MPA imposes limits on the noise levels generated by construction activity to ensure the good health and safety of surrounding building occupants. The MPA requires that the noise emission during construction is kept below 70dB(A) $L_{eq}(15 \text{ mins})$ at the façade of our building, in accordance with

the *Interim Construction Noise Guideline*. Further, the internal noise level of 50dB(A) $L_{eq(15\text{ mins})}$ applies inside of our building.

The project is required, by condition D12, to comply with the approved Noise and Vibration Management Plan. This plan adopts an internal noise goal of 50dB(a) $L_{eq(15\text{ mins})}$ for noise experienced at the MITSA building. This level is:

- consistent with the noise emission goals adopted at the project approval stage;
- 5 dB(A) higher than the recommended internal noise level for office areas contained in AS2107; and
- consistent with the maximum safe noise level for office workplaces recommended by Safe Work Australia's *Code of Practice for Managing Noise and Preventing Hearing Loss*.

The decibel scale is logarithmic and an increase of 3dB represents a doubling of sound energy. What may look like only a minor exceedance on paper can, in reality, have significant impacts.

Serious health issues can be caused by exposure to unacceptably high noise levels, including hearing loss, tinnitus, fatigue and cardiovascular disorders.

Breaches of the MPA

Since entering into ownership of the property on 31 August 2016, we have received numerous complaints from tenants of excessive noise and vibration emitting from the Site. We are aware that Laing O'Rourke's community liaison officer has also received numerous complaints from tenants of our building, and these largely go unanswered and development continues without any due consideration.

We are concerned that the people working inside of our building have been exposed to excessive occupational noise since the commencement of demolition of the Site, which has created an unsafe work environment. This risk to health is unacceptable.

I have personally attended our building during construction hours and have experienced the extreme noise coming from the Site, which caused me distress and physical discomfort. Furthermore, I have received numerous complaints from tenants whereby their staff have been placed on reduced working hours or off work permanently due to the noise impact on their health. Workers Compensation claims have commenced, as have proceedings against the us under the tenants leases.

I have recently been provided with noise monitoring results for the period 22-26 September 2016 for noise monitoring carried out inside of our building. Further information on noise monitoring over the full development from circa July 2016 remains outstanding as requested of Laing O'Rourke since 6 September 2016.

Over the three weekdays covered by the monitoring contained in the abovementioned report, the occupants of our building were exposed to noise exceeding 65dB(A) $L_{eq(15\text{ mins})}$, hugely in excess of the adopted noise goal and safe workplace levels, for significant periods of time each day – almost 5 hours on 22 September 2016, 2 hours on 23 September 2016 and 3 hours on 26 September 2016.

On 22 September 2016 the Leq(15 mins) noise level rose above the 50dB(A) goal at approximately 7:30am and the noise stayed significantly above that level until almost 5pm. The report confirms that similar breaches of the 50dB(A) goal occurred on both 23 and 26 September 2016.

The occupants of our building are essentially being subjected to noise above 50dB(A) (and often *significantly* above this) continuously, for their entire working day.

In view of Laing O'Rourke's breach of its MPA and its refusal to co-operate with our efforts to ensure a safe work place for the occupants of our building, we are now contemplating urgent proceedings in the Land and Environment Court against Laing O'Rourke to remedy and restrain the breach. This is an extreme and expensive solution to this issue however we cannot see how it will otherwise be resolved.

In circumstances where Laing O'Rourke is currently so significantly in breach of the noise limits required by its MPA, we object to any extension of the construction hours on the Site, or any other indulgence in the conditions of approval, until such time as the noise issue is addressed.

It may be appropriate to permit construction hours to be varied to accommodate, for example, an earlier start or longer hours for Saturday work, however this should not occur while Laing O'Rourke is in breach of its MPA. We also consider it vital consideration be given to restrictions during approved working hours on loud emitting works.

We have asked Laing O'Rourke to meet with us to prepare a management plan for future noise management on Site, so that all internal noise levels are kept below 50dB(A) $L_{eq(15\text{ mins})}$ inside of our building, and we consider that this should occur *prior to* any favourable consideration of its application to modify the MPA.

We are also seeking that Laing O'Rourke provide a program for periods of respite from high noise levels.

Please contact Matthew McQueen, 02 9186 4700 or 0432 303 290 for all aspects on this matter.

Yours faithfully



Matthew McQueen
Asset Manager
Propertylink