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5 April 2018

Ms Carolyn McNally
Secretary
NSW Department of Planning and Environment
320 Pitt Street
SYDNEY NSW 2000

Attention: Andy Nixey (Principal Planner – Key Sites Assessments)

Dear Carolyn,

SECTION 4.55 (1A) MODIFICATION TO SSD 7087 | 75-85 HARRINGTON STREET, THE ROCKS

This application has been prepared by Urbis on behalf of Golden Age and Hannas The Rocks Pty Ltd (the Applicant) and is made to the NSW Department of Planning and Environment (NSW DPE), seeking amendment to SSD 7087 pursuant to Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The modification seeks to amend the following conditions of consent:

- A2 (Terms of Consent).
- B7 (Compliance with Acoustic Assessment).
- B8 (Road and Rail Noise and Vibration Criteria for Sensitive Developments).
- B17 (Mechanical Ventilation).
- B37 (Adaptable Housing); and
- F6 (Waste Management)

This letter describes the proposed modifications and provides a planning assessment of the relevant matters for consideration contained in Section 4.55 of the EP&A Act and is supported by a Letters from Acoustic Logic (Appendix A) and VOS Group (Appendix B).

1. THE SITE

SSD 7087 relates to land known as 75-85 Harrington Street, The Rocks – legally described as Lot 1 DP 777033 (refer to Figure 1 for site aerial). Place Management NSW (PM NSW), formerly known as Sydney Harbour Foreshore Authority, are the landowners and the applicant is the long-term leaseholder.

The 2,110 sqm site currently accommodates a seven-storey 1980s commercial office building (known as ‘Harrington Court’) and four attached terraces, known as the ‘Baker’s Terraces’ which are retained on the State Heritage Register.

The site and surrounding area form part of The Rocks, located to the north of the Sydney Central Business District (CBD) and within the City of Sydney Council (Council) local government area (LGA).

Figure 1 – Site Aerial



Source: SSD 7087 EIS

2. BACKGROUND

On 12 January 2018, development consent was granted by the (former) Planning Assessment Commission (PAC). The approved development consisted of:

- Demolition of the existing ‘Harrington Court’ commercial building (85 Harrington Street).
- Construction of two mixed-use buildings over a combined basement, comprising:
 - Building 1: Part seven/part nine storeys fronting Gloucester Street and Harrington Street; and
 - Building 2: Six storeys fronting Harrington Street.
- Providing a total Gross Floor Area (GFA) of 9,308 sqm, comprising:
 - 1,132 sqm of commercial GFA (Building 1).
 - 927 sqm of retail GFA (including 136 sqm in the State Heritage Listed ‘Baker’s Terrace’); and
 - 7,249 sqm of residential GFA comprising 58 units and townhouses.

- Creation of a new pedestrian through-site link between Harrington Street and Gloucester Street, including new public lift access.
- Creation of a new vehicular access into the site via Harrington Street.
- Excavation for a two-level basement car park with 53 car parking spaces and five motorcycle spaces;
- Creation of a new public plaza located between Building 1, Building 2 and the Baker's Terrace; and
- Undertaking adaptive re-use works to Baker's Terrace, including internal conversions for various uses, and conservation and maintenance works.

The modification has been prepared to correct minor errors in the conditions of consent and amend certain conditions to reflect the intended staging of construction.

3. PROPOSED MODIFICATIONS TO THE DEVELOPMENT

3.1. CORRECTION OF ERRORS

3.1.1. Condition A2 (Terms of Consent)

Within Condition A2, the NSW Department of Planning and Environment (NSW DPE) provide a schedule of approved drawings. There are some inconsistencies between the schedule of drawings in Condition A2 and the set of stamped drawings:

- Drawing DA-2035 – Adaptable and Liveable Housing Guide (units 701 and 703) – Revision R
 - This drawing appears on the schedule, but has not been provided to the applicant as stamped. The applicant requests a stamped copy from NSW DPE.
- Drawing DA-2800 – GFA Plans – Revision R
 - This drawing is dated 1 November 2017 in the schedule but is dated 9 November 2017 on the stamped drawing. The applicant requests NSW DPE amend the drawing schedule accordingly.

3.1.2. Condition B37 (Adaptable Housing)

Condition B37 states *“Prior to issue of the relevant Construction Certificate, the Certifying Authority is to ensure that the building has been designed to accommodate a total of 12 adaptable residential units...”*.

The approved drawing set (Drawing Reference: DA-2025 – Revision R) illustrates six adaptable apartments. Accordingly, the applicant requests this condition be amended to:

*“B37 Prior to issue of the relevant Construction Certificate, the Certifying Authority is to ensure that the building has been designed to accommodate a total of ~~12~~ **six** adaptable residential units and that the requirements are referenced on the relevant Construction Certificate drawings. In addition, information shall be provided confirming:*

a) the required number of units are able to be adapted for people with a disability in accordance with the BCA; and

b) compliance with Australian Standard AS4299 – Adaptable Housing.”

3.1.3. Condition F6 (Waste Management)

Condition F6 states “Waste Management shall be undertaken in accordance with the Waste Management Plan, prepared by Savills Project Management, dated January 2016, and Condition E21”.

The Waste Management Plan prepared by Savills (January 2016) relates to construction waste handling, and Part F of the consent relates to ‘Post Occupancy – During Operation’. Condition E21 requires the building owner/licensed waste contractor to prepare a Waste Management Plan. Accordingly, the condition should be reworded as follows:

“F6 Waste Management shall be undertaken in accordance with the Waste Management Plan, prepared by Savills Project Management, dated January 2016, and **the licensed waste contractor per Condition E21.**”

3.2. ACOUSTIC CONDITIONS

Conditions B7 and B8 require specific design drawings and methodology to be prepared (related to the Acoustic Report and noise criteria) prior to the issue of any Construction Certificate (CC). The Applicant has advised that the CC staging for the project will be undertaken in the following fashion:

- CC1 – Demolition, excavation and site preparation works.
- CC2 – Design for construction.

Acoustic Logic (refer to Letter at Appendix A) have advised that the acoustic design should be undertaken prior to CC2 works for the following reasons:

- The acoustic design for traffic noise will be reliant on parameters such as interior finishes which will be finalised as part of the detailed design.
- The acoustic design of mechanical plant for both interior noise levels and emissions from the site will be reliant on a developed mechanical design which will be finalised for CC1.

Accordingly, the applicant requests the following amendment to Conditions B7 and B8:

“B7 All performance parameters, requirements, engineering assumptions and recommendations contained in the Acoustic Assessment report, prepared by Acoustic Studio, dated 7 January 2016, must be implemented as part of the detailed design assessment and implemented into the design drawings prior to the commencement of the use of the premises and to the satisfaction of the Certifying Authority.

Prior to the issue of ~~any Construction Certificate~~ **the relevant Construction Certificate**, the construction drawings and construction methodology must be assessed and certified by a suitably qualified acoustic and vibration consultant to be in accordance with the requirements of the aforementioned Acoustic Assessment report.

“B8 The buildings must be designed and constructed so that the road traffic noise levels and the rail noise and vibration levels inside the buildings comply with the criteria specified in Development Near Rail Corridors and Busy Roads – Interim Guideline (Department of Planning, 2008). Details demonstrating

compliance with this requirement are to be submitted to the Certifying Authority prior to the issuing of ~~any Construction Certificate~~ **the relevant Construction Certificate.**"

3.3. MECHANICAL VENTILATION CONDITION

Presently, Condition B17 provides that any exhaust system servicing an area where food is being cooked must discharge exhaust air at roof level. VOS Group have confirmed that the proposed horizontal exhaust discharge is a compliant solution (per AS 1668.2) – refer to Appendix B for further details. Accordingly, the Applicant requests Condition B17 to be amended in the following way:

"B17 The mechanical exhaust systems for the ground floor tenancies are to be designed to be capable of accommodating exhaust requirements in accordance with relevant Australia Standards, in order to allow for the event that any of the tenancies are approved for future use by food premises or other uses which require mechanical exhaust. ~~Any exhaust system servicing an area where food is being cooked must discharge exhaust air at roof level.~~"

4. PLANNING ASSESSMENT

4.1. MINIMAL ENVIRONMENTAL IMPACT

Section 4.55 (1A)(a) requires the consent authority to be *"satisfied that the proposed modification is of minimal environmental impact"*. Further, Section 4.55(3) requires the consent authority to *"take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application"*.

The EIS (July 2016) and Response to Submissions (August 2017) submitted as part of SSD 7087 addressed:

- The provisions of all relevant environmental planning instruments.
- The likely impacts of the development – environmental, social and economic.
- The suitability of the site for the development; and
- The public interest.

The assessment of the proposed modified against Section 4.55(3) remains unchanged with respect to the above considerations given the reasons outlined in Section 4.2 of this modification application.

4.2. SUBSTANTIALLY THE SAME DEVELOPMENT

Section 4.55(1A)(b) requires the consent authority to be *"satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all)"*.

The proposal is substantially the same development as that originally approved because it:

- Does not propose any change of land use.
- Does not propose any change to the building form.
- Does not propose any change to GFA.



- Does not propose any change to the PAC approved bicycle or parking numbers.
- Does not propose any changes which would have an impact on Heritage values.

Overall, the proposed modifications will result in substantially the same development, and will assist in the delivery of the project in a more efficient and coordinated manner.

4.3. NOTIFICATION AND SUBMISSIONS

Per Section 4.55(1A)(c) and (d), any submissions received by NSW DPE during the public exhibition period will need to be considered in the assessment of the application.

5. CONCLUSION

This Section 4.55(1A) modification application to SSD 7087 seeks minor amendments to conditions of consent. It is proposed to:

- Correct minor errors.
- Amend Conditions B7 and B8 to facilitate an orderly construction program.
- Amend Condition B17 to allow vertical exhaust discharge, an alternate solution which complies with the applicable Australian Standard (AS 1668.2).

Having regard to the above, the NSW DPE may modify SSD 7087 pursuant to Section 4.55(1A) of the EP&A Act because:

- The proposal is of minimal and inconsequential environmental impact; and
- Represents substantially the same development for which the consent was granted.

If you have any questions please don't hesitate to contact me at (02) 8233 7606 or aharvey@urbis.com.au.

Yours faithfully,

A handwritten signature in blue ink, appearing to read "A. Harvey".

Andrew Harvey
Director

Enclosed: Appendix A: Letter prepared by Acoustic Logic
Appendix B: Letter prepared by VOS Group