



DOC17/405526
SSD 7388 (MOD4)

Ms Emma Butcher
Planning Officer
Department of Planning and Environment
320 Pitt Street
SYDNEY NSW 2000

Dear Ms Butcher

**Notification of Modification
IMAX Redevelopment Option No. 2 (SSD 7388 MOD 4)**

I refer to your email of 4 August 2017 to the NSW Environment Protection Authority (EPA) regarding the Section 96(2) Modification Request to modify Condition D1 of the development consent for the redevelopment of the IMAX Theatre at Darling Harbour.

The proposal seeks approval to amend construction hours to 06:00 AM to 12:00 AM, Mondays to Saturdays (excluding public holidays).

Based on the information provided, the proposal does not constitute a Scheduled Activity under Schedule 1 of the *Protection of the Environment Operations Act 1997* (POEO Act), and will not require an Environment Protection Licence (EPL) under the POEO Act. The EPA understands that the proposal is not being undertaken by or on behalf of a public authority. The EPA is therefore not the appropriate regulatory authority for the proposal.

The EPA recommends that conditions of consent should require construction noise, including hours of operation, to be managed in accordance with the Interim Construction Noise Guideline (EPA, 2009) (ICNG). Section 2.3 of the ICNG provides guidance for when works may be undertaken outside of standard construction hours. In general, "only works undertaken on public infrastructure need to be undertaken outside the recommended standard hours. This need is typically based on a requirement to sustain the operational integrity of public infrastructure, as works to restore operation of the infrastructure provide benefit to the greater community (i.e. more than just local residents)." Examples of public infrastructure include railways, roads, ferries, airports, utilities and mains sewerage. Convenience or the need to make up lost time to ensure timely project delivery are not considered viable justifications for undertaking construction works outside of standard construction hours.

The application does not provide adequate justification for why construction works need to be undertaken outside of standard construction hours. JBA's letter dated 28 June 2017 states that the "application seeks to change the approved construction hours, so as to enable works to be undertaken in the most time-efficient manner practicable." However, no further detail is provided and the application does not demonstrate a viable need for the proposed hours other than convenience.

An Extended Hours Construction Noise Assessment, dated 26 June 2017 has been prepared by Acoustic Logic Consultancy Pty Ltd in support of the application. The assessment identifies sensitive receivers, noise sources and potential noise impacts, and recommends noise mitigation measures. However, the assessment does not reference the ICNG, and does not adequately explore alternative options to the proposed extended construction hours.

The ICNG recommends that proponents should demonstrate that community views have been considered when providing justification for the need to work outside standard hours. JBA's letter dated 28 June 2017 states that "the proposed modification is seen to be in the public interest by virtue of the changed construction hours enabling a faster overall completion of the development." However, the application provides no evidence to support this claim. There is no evidence that the local community has been engaged or that it supports the proposed construction hours.

If you have any questions in relation to this letter please contact Rajesh Mottey on 9995 6563.

Yours sincerely



23/08/2017

MARK HANEMANN
A/Unit Head - Sydney Industry
NSW Environment Protection Authority

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