



11 Gibbons Street, Redfern Modification 1

Amendment to Condition D2 (Construction hours)
State Significant Development Modification Assessment
(SSD 7749 MOD 1)

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Cover image: Montage of approved development looking east from Gibbons Street Reserve

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Glossary

Abbreviation	Definition
Applicant	SGCH Sustainability Limited
Council	City of Sydney Council
Department	Department of Planning, Industry and Environment
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPI	Environmental Planning Instrument
LEP	Local Environmental Plan
LGA	Local Government Area
Minister	Minister for Planning and Public Spaces
Planning Secretary	Secretary of the Department of Planning, Industry and Environment
SEPP	State Environmental Planning Policy
SRD SEPP	State Environmental Planning Policy (State and Regional Development) 2011
SSD	State Significant Development
The site	11 Gibbons Street, Redfern
TfNSW (RMS)	Transport for NSW (RMS)

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1 Introduction

This report provides an assessment of an application seeking to modify the State significant development (SSD) approval (SSD 7749) for a social housing development at 11 Gibbons Street, Redfern.

The application has been lodged by SGCH Sustainability Limited (the Applicant) pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The modification application seeks approval to amend Condition D2 (Construction hours) to allow construction to commence 30 minutes earlier (from 7 am instead of 7.30 am) and finish 30 minutes later (at 6 pm instead of 5.30 pm) Monday to Friday.

1.1 Background

The site is located at 11 Gibbons Street, Redfern. The site is located within the Redfern Town Centre, within the City of Sydney local government area (LGA). The site previously contained a Council depot.

The site is bound by Gibbons Street to the west, Marian Street to the north, William Lane to the east, and a four to five storey residential apartment building to the south (13-23 Gibbons Street). Two-storey shops and dwellings are located on the eastern side of William Lane (90-102 Regent street) and an 18-storey mixed-use tower is located on the northern side of Marian Street opposite the site (7-9 Gibbons Street) (Figures 1 and 2).



Figure 1 | Site location (highlighted in red) (Source: Department's SSD 7749 Assessment Report)

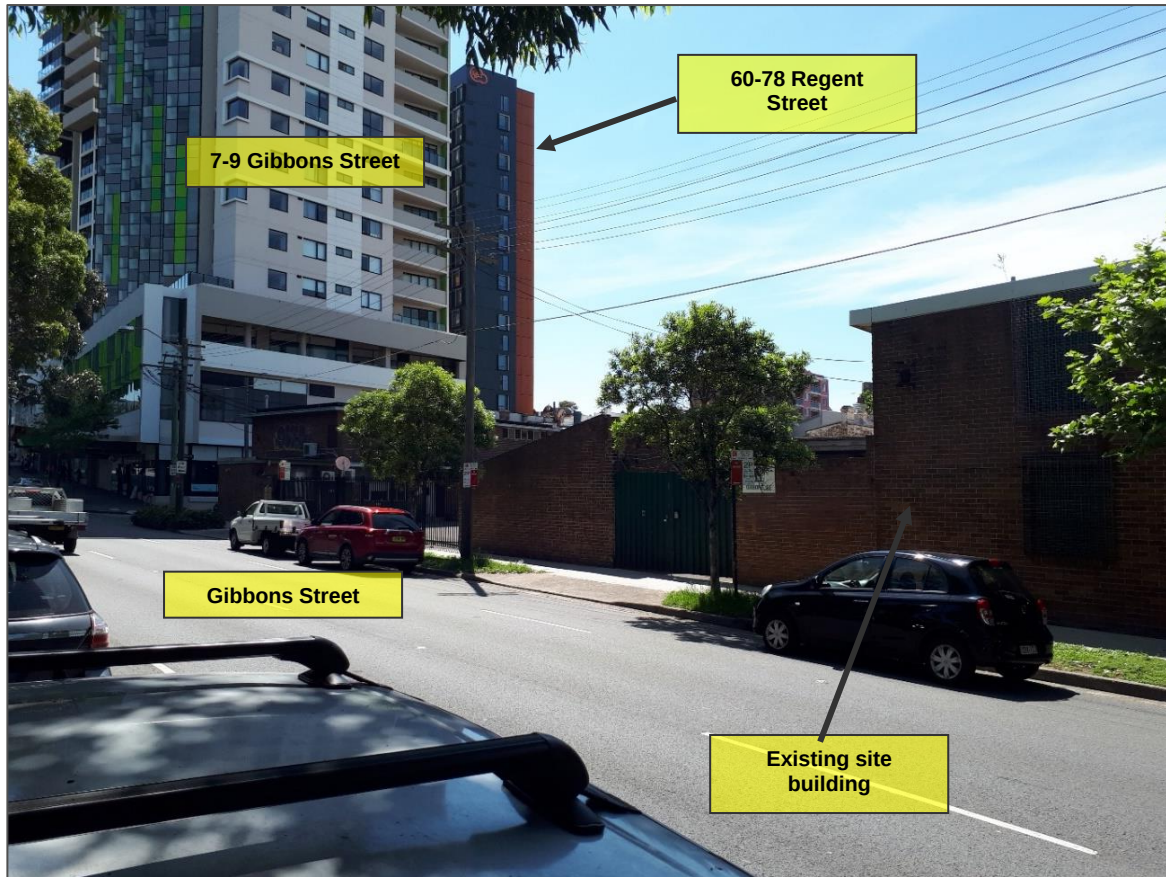


Figure 2 | View of the site looking north (Source: Department's SSD 7749 Assessment Report)

1.2 Approval history

On 10 September 2019, the Independent Planning Commission (Commission) approved a SSD application (SSD 7749) for the construction of an 18-storey mixed-use development comprising 160 social and affordable housing apartments, ground floor commercial/retail, office and common facilities, and lot consolidation.

Construction has commenced and there have been no previous modifications to the consent.

2 Proposed modification

On 10 August 2020, the Applicant lodged a modification application (SSD 7749 MOD 1) seeking approval, under section 4.55(1A) of the EP&A Act, for amendments to Condition D2 (Construction hours).

Condition D2 states:

- D2 Construction, including the delivery of materials to and from the site, may only be carried out between the following hours:
- a) between 7.30 am and 5.30 pm, Mondays to Fridays inclusive; and
 - b) between 7.30 am and 3.30 pm, Saturdays.

The application seeks to modify Condition D2 as follows (words proposed to be deleted are shown in ~~strike through~~ and words to be inserted are shown in **bold and underline**):

- D2 Construction, including the delivery of materials to and from the site, may only be carried out between the following hours:
- a) between ~~7.30~~ **7.00** am and ~~5.30~~ **6.00** pm, Mondays to Fridays inclusive; and
 - b) between 7.30 am and 3.30 pm, Saturdays.

The Applicant therefore seeks to commence construction at 30 minutes earlier in the morning (7 am) and finish 30 minutes later (6 pm).

3 Statutory context

3.1 Scope of modifications

The Department has reviewed the scope of the modification application and considers the application can be characterised as a modification involving minimal environmental impacts as the proposal:

- would not increase the environmental impacts of the project as approved; and
- is substantially the same development as originally approved.

Therefore, the Department is satisfied the proposed modification is within the scope of section 4.55(1A) of the EP&A Act and does not constitute a new development application. An assessment of the proposed modification application against the requirements of section 4.55(1A) of the EP&A Act is provided in **Appendix B**.

Accordingly, the Department considers that the application should be assessed and determined under section 4.55 (1A) of the EP&A Act rather than requiring a new development application to be lodged.

3.2 Consent authority

The Minister for Planning and Public Spaces is the consent authority for the application under section 4.5(a) of the EP&A Act. However, in accordance with the Minister's delegation, the Director, Key Sites Assessments, may determine this application as:

- a political disclosure statement has not been made
- there are 10 or less public submissions in the nature of objections.

3.3 Mandatory matters for consideration

The following are relevant mandatory matters for consideration:

- section 4.55(1A) of the EP&A Act, including environmental planning instruments or proposed instruments
- EP&A regulation
- likely impacts of the modification application, including environmental impacts on both the natural and built environments, and social and economic impacts
- suitability of the site
- any submissions
- the public interest; and
- the reasons for granting approval for the original application.

The Department has considered all of these matters in its assessment of the proposal. The Department has also given consideration to the relevant matters in **Section 6** and **Appendix B**.

4 Engagement

4.1 Department's engagement

Section 4.55(1A) modifications are not required to be notified under the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation). However, the modification application was made publicly available on the Department's website and referred to the City of Sydney Council (Council). The Department also notified previous submitters, noting the amended construction hours are consistent with those originally proposed and advertised for SSD 7749.

4.2 Summary of submissions

The Department received a submission from Council in relation to the application. Council confirmed the documentation had been reviewed and provided no comments on the proposal.

Two public submissions were received, both objecting based on potential increased noise from the extended construction hours.

5 Assessment

In assessing the merits of the proposal, the Department has considered:

- the modification application and associated documents
- the Environmental Assessment and conditions of approval for the original application
- relevant environmental planning instruments, policies and guidelines
- the requirements of the EP&A Act and Regulation
- Council and public submissions received.

The Department considers the key assessment issue associated with the proposal to be potential additional noise/disturbance impacts to neighbouring residents from extending the approved construction hours.

5.1 Noise/disturbance impacts

Concern was raised in a public submission about the potential for additional noise impacts from the proposed extended construction hours.

The Applicant contends the proposed amended hours are in response to the COVID-19 pandemic and will facilitate the staggered start and finish times of different trades to enable social distancing protocols to be maintained without impact to the social housing construction program.

The Department considers the amended construction hours are acceptable in this instance for the following reasons:

- the amendment is in response to COVID-19 social distancing requirements and will ensure the construction program is not delayed
- the amendment is relatively minor with construction work allowed to commence 30 minutes earlier in the morning and finish 30 minutes later in the evening
- the extended construction hours avoid the more sensitive night-time period between 10 pm and 7 am
- Council have notably extended construction hours to 6 am to 8 pm on weekdays for developments within the LGA during the COVID-19 pandemic
- the amended hours would be consistent with the morning construction hours approved for SSD 9275 at 80-88 Regent Street which is located in close proximity to the site and is currently under construction (**Figure 1**).

The Department also notes the existing conditions of approval would continue to appropriately mitigate and manage construction impacts in terms of noise, dust and traffic impacts.

The Department is therefore satisfied that the extended construction hours are acceptable.

6 Evaluation

The Department has reviewed the proposed modification and assessed the merits of the application.

The Department considers the proposed modification would not result in any unreasonable adverse noise/disturbance impacts on neighbouring residents whilst allowing the development to be completed without unnecessary delay as a result of COVID-19 social distancing requirements for construction workers. The amendment will also reduce the length of construction activities and associated noise on the site.

Consequently, the Department concludes the modification application is in the public interest and should be approved, subject to conditions.

7 Recommendation

- It is recommended that the Director, Key Sites Assessments, as delegate of the Minister for Planning and Public Spaces
- **considers** the findings and recommendations of this report
- **determines** that the application SSD 7749 MOD 1 falls within the scope of section 4.55(1A) of the EP&A Act;
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to approve the modification
- **modify** the consent SSD 7749
- **signs** the attached approval of the modification (**Appendix C**).

Recommended by:



Andy Nixey
Principal Planner
Key Sites Assessments

Recommended by:



Cameron Sargent
Team Leader
Key Sites Assessments

8 Determination

The recommendation is **adopted** ~~/not adopted~~ by:



15/09/2020

Anthony Witherdin

Director

Key Sites Assessments

(as delegate of the Minister for Planning and Public Spaces)

Appendices

Appendix A – List of referenced documents

The following supporting documents and supporting information to this assessment report can be found on the Department of Planning, Industry and Environment's website as follows:

Modification Request

<https://www.planningportal.nsw.gov.au/major-projects/project/39501>

Submissions

<https://www.planningportal.nsw.gov.au/major-projects/project/39501>

Appendix B – Statutory Considerations

Under section 4.55(3) of the EP&A Act, the consent authority must consider the matters referred to in section 4.15(1) of relevance to the development. **Table 1** identifies the matters for consideration under section 4.15 of the EP&A Act that apply to the proposed modification. The table represents a summary for which additional information and consideration is provided in other sections of this report, as referenced in the table.

Table 1 | Assessment of Section 4.15(1)

Section 4.15(1) Matters for consideration	The Department's assessment
(a)(i) any environmental planning instrument	The modified proposal complies with the relevant legislation as addressed in Section 3 .
(a)(ii) any proposed instrument	The modified proposal complies with the relevant legislation as addressed in Section 3 .
(a)(iii) any development control plan	Under clause 11 of the SRD SEPP, Development Control Plans (DCPs) do not apply to SSD.
(a)(iiia) any planning agreement	Not applicable.
(a)(iv) the regulations	The application satisfactorily meets the relevant requirements of the <i>Environmental Planning and Assessment Regulation 2000</i> , including the procedures relating to applications (Part 6), the requirements for notification (Part 6, Division 6) and fees (Part 15, Division 1AA) (refer to Section 4).
(b) the likely impacts of that development including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,	The Department considers the proposed changes to be minor and would not result in any adverse environmental impacts (refer to Section 5).
(c) the suitability of the site for the development	The site is suitable for the development as addressed in Sections 3 and 5 .
(d) any submissions	The Department received one submission from Council and two public submissions. Refer to Section 4 and 5 .
(e) the public interest	The Department considers the modified proposal to be in the public interest as it would facilitate the orderly and efficient development of the site.

Table 2 | Assessment of Section 4.55(1A)

Section 4.55(1A)	Assessment
That the proposed modification is of minimal environmental impact	The proposed modification would not alter any of the key components or characteristics of what was originally approved under SSD 7749.
That the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all).	The changes relate to hours of construction only. The Department is satisfied the modification application would therefore result in a development that is substantially the same as the originally approved.
The application has been notified in accordance with the regulations.	Section 4 of this report demonstrates the modification application followed the consultation requirements as outlined in the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation)
Any submission made concerning the proposed modification has been considered.	The Department received one submission from Council and two public submissions. Refer to Section 4 of this report.

Environmental Planning Instruments

The following Environmental Planning Instruments (EPIs) apply to the site:

- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No. 55 – Remediation of Land
- State Environmental Planning Policy (Coastal Management) 2018
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Draft Remediation of Land State Environmental Planning Policy
- Draft Environment State Environmental Planning Policy.

The Department has assessed the proposed modification against the relevant provisions of these instruments and considers the modification can be carried out in a manner that is consistent with their aims, objectives and provisions.

Objects under the act

The Minister or delegate must consider the objects of the EP&A act when making decisions under the Act. The Department is satisfied the proposed modification is consistent with the objects of the EP&A Act.

Appendix C – Modification Instrument