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2210627

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ATTN: David Glasgow, Principal Planning Officer, Key Sites Assessments

Dear David,

**SECTION 4.55(1A) MODIFICATION APPLICATION
HARBOURSIDE SHOPPING CENTRE REDEVELOPMENT – SSD 7874**

This application has been prepared by Ethos Urban on behalf of Mirvac Projects Pty Ltd (Mircvac), pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to modify Development Consent SSD 7874 relating to the concept approval and stage 1 demolition works for the redevelopment of the Harbourside Shopping Centre in Darling Harbour.

The modification relates to administrative amendments to conditions C12 and D1 within schedule 3 of the conditions of consent to remove ambiguity and enable the orderly and efficient delivery of the project.

This application identifies the consent, describes the proposed modifications, and provides an assessment of the relevant matters contained in section 4.55(1A) of the EP&A Act.

1.0 Consent proposed to be modified

State Significant Development (SSD) Application 7874 (SSD 7874) was approved by the Independent Planning Commission (IPC) on 25 June 2021 for stage 1 concept approval of the redevelopment of the Harbourside Shopping Centre into a mixed-use development with a retail/commercial podium and residential tower (**Figure 1**).



Figure 1 Artist's impression of SSD 7874

Source: FJMT

The concept approval establishes the relevant planning parameters, including building envelopes, maximum GFA limits, Design Guidelines and a Design Excellence Strategy, and car parking rates to guide the future detailed design, construction, and operation of Harbourside under a future stage 2 detailed design SSD application.

Additionally, of particular relevance to this modification, SSD 7874 also grants consent to the demolition of the existing shopping centre and associated structures, also known as the 'stage 1 demolition works'. Conditions of consent relating to these stage 1 works are provided under schedule 3 of the SSD 7874 consent.

SSD 7874 is described in its development consent as:

Redevelopment of Harbourside Shopping Centre comprising:

Concept Proposal for:

- *a residential and commercial building envelope, comprising:*
 - *a maximum height of RL 166.95*
 - *a maximum GFA of 87,000m² including:*
 - *42,000m² residential GFA*
 - *45,000m² non-residential GFA*
 - *minimum publicly accessible open space of 3,500m² on the Northern Podium*
 - *sitewide concept landscaping including public domain upgrades and through site links*

- *Bunn Street bridge*
- *design guidelines and design excellence strategy*
- *car parking rates*

Stage 1 works for the demolition of:

- *existing shopping centre and structures*
- *southern pedestrian link bridge*
- *monorail infrastructure*
- *tree removal.*

2.0 Proposed modifications to the consent

Following approval of SSD 7874 on 25 June 2021, Mirvac is now looking to progress the delivery of the redeveloped Harbourside Shopping Centre, including the approved stage 1 demolition works. Mirvac’s construction team have reviewed the issued conditions of consent in detail and identified that administrative amendments to conditions C12, C14, and D1 within schedule 3 are necessary to remove ambiguity and enable the efficient delivery of the project.

Specifically, consent is sought for the following:

- Amendments to condition C12 to remove ambiguity and establish more clearly the parameters for respite periods for the project.
- Amendment to condition D1 to require a dilapidation survey be issued upon completion of works (rather than in the interim).

Amendments are proposed to consent wording only, with no design changes to approved development.

The proposed amendments, as well as further justification, is provided in the below subsections. Words proposed to be deleted are shown in ~~bold strike through~~ and words to be inserted are shown in ***bold italics***.

2.1 Conditions C12, C14 (respite periods)

C12. The Applicant shall schedule intra-day ‘respite periods’ for demolition activities predicted to result in the 75dB(A) “highly noise affected” target being exceeded. Respite periods shall be scheduled at the same time each day ~~(e.g. 8 am to 11 am Monday to Saturday or 12 pm to 3 pm Monday to Friday or 4 pm to 6 pm Monday to Friday)~~ unless otherwise negotiated with the most affected noise sensitive receivers.

[...]

C14. For Category A appliances (as identified in the City of Sydney Construction Hours / Noise within the Central Business District Code of Practice 1992), respite periods shall be applied for activities predicted to result in exceedances of the Highly Noise Affected Threshold (as identified in the EPA Interim Construction Noise Guideline).

For these activities, respite periods to be adopted as follows (unless other arrangement with the affected noise receiver is agreed):

- a) *7am to 8am (Monday to Saturday)*
- b) *1pm to 2pm (Monday to Saturday).*

These respite periods do not apply to periods of equipment set up or similar.

Justification: Proposed amendments seek to remove ambiguity and confusion around implementation of respite periods, in particular confusion created between existing conditions C12 and C14. Regard has been had to direction provided within the Interim Construction Noise Guidelines in proposing amendments. Condition C14 provides the clarity around expectations for when respite periods are expected to be provided, subject to any tailored approach developed by Mirvac taking into consideration the different needs and sensitivities of surrounding businesses and residents.

2.2 Condition D1 (dilapidation survey)

D1. Prior to the commencement of ~~Stage 2 works~~ issue of the final Occupation Certificate, a post - ~~demolition construction~~ dilapidation survey must be undertaken via a joint inspection with representatives from TfNSW, Altrac, the Sydney Light Rail Operator and the Applicant. The dilapidation survey must be undertaken on the rail infrastructure and property in the vicinity of the project. These dilapidation surveys must establish the extent of any existing damage and enable any deterioration during ~~construction demolition~~ to be observed. The submission of a detailed dilapidation report to TfNSW and the Sydney Light Rail Operator will be required unless otherwise notified by TfNSW.. The applicant needs to undertake recertification of any damage to the satisfaction of TfNSW and the Sydney Light Rail Operator and if applicable, the local council.

Justification: Mirvac intends to undertake the redevelopment of the site (including stage 1 demolition works currently approved under SSD 7874 and future stage 2 construction works) holistically, so that the redevelopment of Harbourside Shopping Centre continues right through from commencement to the completion of works.

As there is to be no hold point or stoppage in delivery, it is not feasible for a dilapidation survey to be issued post demolition works but prior to the commencement of stage 2 works. This is especially as the construction methodology would see different phases of the project undertaken concurrently; e.g., excavation (subject to future approval) may be occurring at one end of the site, while demolition is still occurring at the other.

It is therefore proposed for the dilapidation survey to be issued upon the completion of all construction works, as is consistent with industry best practice, rather than at an interim period in the redevelopment of the site.

3.0 Substantially the same development

Section 4.55(1A) of the EP&A Act states that a consent authority may modify a development consent if “it is 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 development, as proposed to be modified, is substantially the same development as that originally approved in that:

- The proposed amendments relate to administrative changes to conditions of consent only, and do not alter the final design of the approved development in any way.
- The proposed amendments are required to clarify and/or enable the efficient delivery of the approved project.
- The proposed amendments do not generate any adverse environmental impacts, during construction or otherwise.

4.0 Environmental assessment

Section 4.55(1A) of the EP&A Act states that a consent authority may modify a development consent if “it is satisfied that the proposed modification is of minimal environmental impact”. Under section 4.55(3) the consent Authority must also take into consideration the relevant matters to the application referred to in section 4.15(1) of the EP&A Act and the reasons given by the consent authority for the grant of the original consent.

The following assessment considers the relevant matters under section 4.15(1) and demonstrates that the development, as proposed to be modified, will be of minimal environmental impact.

4.1 Environmental planning instruments

As there are no changes to design, the development's consistency with the relevant environmental planning instruments, including the *Darling Harbour Development Plan No. 1* (DHDP), remains unchanged by the proposed administrative amendments.

4.2 Acoustic impacts

Key community and business concerns raised during the assessment of the Stage 1 Concept Proposal included noise impacts resulting from construction (demolition) works.

Mirvac is a highly experienced developer and builder and accordingly proposed a range of measures to be further developed as part of its detailed Construction and Environmental Management Plan in order to minimise and manage noise impacts.

Implementation of respite periods are acknowledged as a highly effective key tool (where appropriate) that can help with managing noise impacts to surrounding sensitive uses. Consistent with the policy approach outlined within the *Interim Construction Noise Guidelines* it is proposed that the framework for implementing respite periods be adopted within the conditions and further developed and detailed as part of the Demolition Noise and Vibration Management Plan (condition B10). Proposed amendments ensure expectations for respite are retained, including a benchmark for respite between 7am-8am and 1pm-2pm as outlined under condition C14.

4.3 Other environmental impacts

As the proposed amendments do not alter the approved design of the SSD 7874 approval, the proposal will not generate any other environmental impacts that require consideration.

4.4 Reasons given for granting consent

The IPC, in its Statement of Reasons provided as part of the SSD 7874 approval on 25 June 2021, gave the following reasons for granting the original consent (**Table 2**). Consistency with these reasons is demonstrated in the table.

Table 1 Consistency with reasons given for granting consent

Reason	Commentary	Consistent?
Residential uses are permitted on the site, pursuant to the provisions of the DHDP;	N/A – no changes are proposed to the design of the approved development.	Yes
The project aligns with State and local strategic directions, such as those outlined in the PPPS;	This modification does not change the project's consistency with the relevant strategic directions, including the <i>Pymont Peninsula Place Strategy</i> .	Yes
The project is considered an orderly and economic use of the site as it would provide for the much-needed redevelopment of the site; and	The proposed amendments are required to remove ambiguity and enable more efficient delivery of the project, thereby allowing for the orderly development of the site.	Yes
Any residual impacts from the project can be appropriately managed and mitigated through the imposed conditions.	The analysis above demonstrates that the proposed amendments to conditions do not generate any unreasonable environmental impacts.	Yes

4.5 Site suitability and public interest

The proposed amendments to the SSD 7874 conditions of consent are considered to be suitable for the site, and in the public interest. They will:

- Provide additional clarification around respite periods for the project, ensuring that ambiguity is removed and ensuring a localised and tailored approach that is informed by stakeholders is able to be adopted.
- Enable a more efficient construction methodology, including concurrent demolition and excavation by requiring a dilapidation survey be issued at the completion of works rather during the interim. This will reduce expected construction timeframes, and with it, the associated construction impacts.

5.0 Conclusion

The proposed modification seeks consent for the following:

- Amendments to condition C12 to remove ambiguity and ensure implementation of respite periods responds to business and community feedback.
- Amendment to condition D1 to require a dilapidation survey be issued upon completion of works (rather than in the interim).

Amendments are proposed to conditions of consent wording only, with no design changes to approved development.

In accordance with section 4.55(1A) of the EP&A Act, Council may modify the consent as:

- the proposed modification is of minimal environmental impact; and
- substantially the same development as development for which the consent was granted.

We trust that this information is sufficient to enable a prompt assessment of the proposed modification request. If you have any questions please do not hesitate to contact the undersigned.

Yours sincerely,



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