

Our Ref: 2190140  
Council Ref: SSD 8517

9 April 2019

2190140

Jim Betts  
Secretary  
Department of Planning & Industry  
GPO Box 39  
SYDNEY NSW 2000

Attention: Brendon Roberts

Dear Brendon

## **SECTION 4.55(1A) MODIFICATION APPLICATION – MOD 2 BAYS 1-4a, LOCOMOTIVE WORKSHOPS, SOUTH EVELEIGH**

This application has been prepared by Ethos Urban on behalf of Mirvac Projects Pty Ltd (Mircac), pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to modify Development Consent SSD 8517 which relates to Bays 1-4a, Locomotive Workshops, South Eveleigh.

The purpose of this modification request is to seek approval to delete Condition D6 within the Development Consent for SSD 8517. Condition D6 refers to construction hours for rock breaking, rock hammering, sheet piling and similar activities.

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. This application is accompanied by an Acoustic Statement, prepared by ARUP which is included at **Attachment A**.

## **1.0 Background**

Two State Significant Development Applications (SSDs 8517 and 8449) relating to the Locomotive Workshops were submitted to the Department of Planning & Industry (the Department) on 13<sup>th</sup> November 2017.

SSD 8517 related to the eastern portion of the Locomotive Workshop being Bays 1-4a and sought approval for:

- The adaptive reuse of the Locomotive Workshops (Bays 1-4a) including:
  - a maximum of 11,662m<sup>2</sup> GFA for uses including retail premises, function centre, educational establishment, information and education facility, artisan food and drink industry, general industrial (retention of the Blacksmith) and recreation facility (indoor);
  - a loading dock and travelator;
  - associated heritage conservation works;
  - public domain works, external illumination and signage.

SSD 8449 related to the western portion of the Locomotive Workshops being Bays 5-15 and sought approval for:

- The adaptive reuse of the Locomotive Workshops (Bays 5-15) including:
  - A maximum of 27,458m<sup>2</sup> GFA for commercial premises including 156m<sup>2</sup> for retail uses;
  - Associated heritage conservation works;
  - External illumination and signage.

Development consent for both SSD applications was granted by the Independent Planning Commission (IPC) on 22 February 2019.

### 1.1 Consent to be modified

The consent that is to be modified in this application is SSD 8517, which relates to Bays 1-4a within the Locomotive Workshop, South Eveleigh.

### 1.2 Previous modification applications

On 1<sup>st</sup> April 2019, an application was submitted to the DPE to seek amendments to Condition B29. This modification application is currently being assessed by the Department.

## 2.0 Proposed modifications to the consent

### 2.1 Modifications to the development

This modification application does not propose any physical works to the approved development.

### 2.2 Modifications to conditions

This modification application seeks to delete Condition D6 included within the Development Consent for SSD 8517, as set out below. A justification for the proposed deletion is also provided.

#### Condition D6

##### ~~D6 — Construction Hours~~

~~Rock breaking, rock hammering, sheet piling, pile driving and similar activities may only be carried out between the following hours:~~

- ~~(a) 9.00am to 12.00pm, Monday to Friday;~~
- ~~(b) 2.00pm to 5.00 5.30pm, Monday to Friday; and~~
- ~~(c) 9.00am to 12.00pm, Saturday.~~

#### Justification

It is noted that Development Consent SSD 7317 for Buildings 1, 2 and 3 and the public domain and landscaping upgrade works within the South Eveleigh precinct, does not include a condition of consent that limits the hours for rock breaking, rock hammering, sheet piling, pile driving and other similar activities. Accordingly, all construction works, including piling, rock breaking and the like, that relate to South Eveleigh commercial development have been undertaken during the hours of 7.30am and 5.30pm Monday to Fridays and 7.30am and 3.30pm on Saturdays.

The purpose of this modification application is to enable all construction works for the Locomotive Workshop redevelopment to undertaken between the same construction hours as allowed under Condition D1 under SSD 7317, as it is considered that this will provide the most efficient construction programme possible, without incurring any unacceptable construction impacts.

Furthermore, the Environmental Impact Statement (EIS) that accompanied the SSD 8517 application, included an Acoustic Assessment (prepared by ARUP). This determined the project construction noise targets and assessed potential noise emissions generated during construction activities. Furthermore, as shown in **Figure 1**, the Acoustic Assessment report identified the closest sensitive noise receivers as being the residential apartments located on Cornwallis Street to the east of the site (R1, R2, R3 and R4) and the commercial receivers being the Channel 7 building (C5), the NIC building (C2) and the Data 61 building (C3).



**Figure 1** Surrounding sensitive noise receivers

Source: ARUP

The Acoustic Assessment also confirmed that as the works associated with the Locomotive Workshop were generally internal, the noise emissions and expected vibration impacts from those works would not be expected to be significant. In addition, in order to successfully manage all construction activities on the site and help mitigate any unacceptable acoustic impacts, ARUP also prepared a Construction Noise Management Plan that was submitted with the EIS.

Notwithstanding this, given the original Acoustic Impact Assessment or Construction Noise Management Plan did not specifically consider activities such as rock breaking, rock hammering, pile driving, sheet piling or other similar activities, ARUP has prepared a supplementary Acoustic Statement (refer to **Attachment A**), that considers the need for Condition D6 to be included within SSD 8517.

Specifically, it notes:

*“the condition as written imposes a prescriptive imposition of respite periods for activities involving impact noise, irrespective of noise emission at the receiver. In accordance with the NSW Interim Construction Noise Guideline, imposition of respite periods is to be determined on the basis of result noise levels at a potentially affected receiver location, typically if it were to exceed the highly affected target.*

*As outlined in the SSD Acoustic report, works will largely be contained within the ATP Locomotive Workshop, and thus noise emission will be substantially reduced, particularly compared with previous works on site. It is expected that the highly affected target will not be exceeded, and only marginally exceed the 'noise affected' level. It is therefore expected that construction activities within the Locomotive Workshop will not adversely impact surrounding noise sensitive receivers."*

Accordingly, it is considered that the inclusion of Condition D6 within SSD 8517 is not required for the following reasons:

- all proposed rock breaking, rock hammering and piling activities will be undertaken inside the Locomotive Workshop building;
- the resultant noise level at any sensitive noise receiver that is located exterior to the Locomotive Workshop building is not expected to exceed the highly affected target established for the development;
- rock breaking, rock hammering, sheet piling, pile driving and other similar activities were undertaken during the construction of Buildings 1, 2 and 3 where respite periods were not enforced or considered necessary, despite those Buildings being located closer to sensitive noise receivers than the Locomotive Workshop;
- in accordance with the Construction Noise Management Plan approved as part of the Preliminary Environmental Construction Management Plan under SSD 8517, Mirvac is managing the impact of the noise and vibration levels directly with the tenants within the Locomotive Workshop that are being retained throughout the construction period;
- the imposition of Condition D6 will result in a longer and more inefficient construction program; and
- the deletion of Condition D6 will not generate in any unacceptable noise impacts.

### 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 deletion of Condition D6 does not seek to modify the approved uses, the external or internal built structures or heritage fabric;
- the proposed amendments do not increase the maximum GFA or amend the design and development parameters as approved;
- the environmental impacts remain substantially the same as the approved development, and in particular will not generate any unacceptable noise impacts; and
- the proposed modifications do not give rise to any new matters/ areas of non-compliance and are of minimal environmental impact.

## 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 Acoustic Impacts

The proposed amendments to SSD 8517 seek to delete Condition D6 in its entirety. As confirmed by ARUP (refer to **Attachment A**), the purpose of Condition D6 is to provide respite periods for activities involving noise that may impact potential sensitive noise receivers, where the noise levels will exceed the highly affected target.

ARUP have however, confirmed that:

- respite periods are not required as the highly affected target will not be exceeded and only marginally exceed the ‘noise affected’ level; and
- the construction activities within the Locomotive Workshop will not adversely impact surrounding sensitive receivers.

The deletion of Condition D6 from SSD 8517 will therefore not generate any unacceptable or additional noise impacts.

## 5.0 Conclusion

This modification application seeks to delete Condition D6 within SSD 8517, as it is not considered necessary to impose prescriptive respite periods for construction activities involving noise.

In accordance with section 4.55(1A) of the EP&A Act, the Department of Planning & Industry 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.

Yours sincerely,



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