

Jim Betts
Secretary
NSW Department of Planning, Industry and Environment
GPO Box 39
Sydney NSW 2001

3 March 2020

Dear Mr Betts

**SECTION 4.55 (1A) MODIFICATION APPLICATION SSD 8671- WALSH BAY ARTS
PRECINCT**

This application has been prepared by MG Planning on behalf of Infrastructure NSW (INSW), under section 4.55(1A) of the *Environmental Planning and Assessment Act, 1979* (EP&A Act) to modify State Significant Development Consent SSD_8671 relating to the Walsh Bay Arts Precinct (the site).

The modification seeks to amend the Saturday construction hours at Wharf 4/5 and associated Shore Sheds from the current 8am to 1pm to 8am to 5pm.

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:

- Acoustic Statement prepared by Arup (Attachment A)
- Inquiry Line Register prepared by Richard Crookes Construction (Attachment B)

1. CONSENT PROPOSED TO BE MODIFIED

On 17 May 2018, the then Minister for Planning granted development consent for State Significant Development 8671. The consent was granted for:

- Demolition and early construction works
- Internal and external works to Pier 2/3

- Internal and external works to Wharf 4/5
- Internal and external works to Shore Shed 4/5
- Use of Pier 2/3, Wharf 4/5 and Shore Shed 4/5 for arts and cultural uses and ancillary uses, functions and events
- Use of Pier 2/3, Wharf 4/5 and Shore Shed 4/5 and wharf aprons for Biennale and Sydney Writer's Festival events
- Public domain works.

There has been one modification to the consent, approved on 28 March 2019 to amend Conditions B29 and B30 relating to the timing of lodgement of fire safety strategies.

INSW has appointed Richard Crookes Construction (RCC) as the main works contractor. RCC have identified an opportunity to expand the approved construction hours without causing adverse environmental impacts.

The extension of construction working hours is proposed to ensure the timely completion of the project.

2. PROPOSED MODIFICATION TO CONSENT

2.1 Proposed modification

The proposed modification to the development consent comprises:

- extending work on Saturdays to between 8am and 5pm (previously 8am to 1pm)
- ensuring no deliveries of construction material or removal of waste occur between 1pm and 5pm Saturdays
- ensuring all construction works are confined to internal activities
- scheduling demolition of internal partitions and works affecting common partitions to neighbouring receivers to standard construction hours.

Proposed activities to take place during the extended hours will be confined to Wharf 4/5 and associated shore sheds and are as follows.

- Construction of internal partitions
- Installation of building services
- Installation of internal finishes and joinery
- General fitting out and commissioning

No physical changes are proposed as part of this modification.

The proposed modification described above necessitates an amendment to Consent Condition C1 and the insertion of a new Condition C1A as identified below. Words proposed to be deleted are shown in bold strike through and words to be inserted are shown in bold.

Construction Hours

C1 Construction, including the delivery of materials to and from the site, may only be carried out between the following hours:

- a) between 7 am and 6 pm, Mondays to Fridays inclusive;*
- b) between 8am and ~~4pm~~ **5pm**, Saturdays.*

No construction work may be carried out on Sundays or public holidays.

Activities may be undertaken outside of these hours if required:

- a) by the Police or a public authority (not the Applicant) for the delivery of vehicles, plant or materials; or*
- c) in an emergency to avoid the loss of life, damage to property or to prevent environmental harms.*

Notification of such activities must be given to affected residents before undertaking the activities or as soon as is practical afterwards.

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

- a) 9am to 12pm, Monday to Friday;*
- b) 2pm to 5pm, Monday to Friday; and*
- d) 9am to 12pm, Saturday.*

Construction activities during Saturday afternoons

C1A No deliveries of construction material or removal of waste and no demolition of internal partitions or works affecting common partitions to neighbouring receivers, are to occur between 1pm and 5pm, Saturdays.

2.2 Construction Management Plans

In accordance with Conditions B63 and B65 of the Development Consent, a Construction Environmental Management Plan (CEMP) and Construction Noise and Vibration Management Plan (CNVMP) have been prepared and submitted to the Department and City of Sydney Council. All construction work has been progressing in accordance with these plans.

Both the CEMP and CNVMP include provisions relating to construction hours of work as follows:

Construction Environmental Management Plan

- Section 4.5.3 – Traffic
- Section 4.5.5 – Noise and Vibration
- Section 4.5.7 – Waste
- Section 4.14 – Hours of Work

Construction Noise and Vibration Management Plan

- Section 6.3 – Hours of Work

It is proposed that these plans be amended to reflect the modified consent with changed construction hours (if approved) and resubmitted to the Department and the Council. It is considered that the current wording of Conditions B63 and B65 would trigger the requirement to amend both plans to reflect the changed construction hours and therefore no modification to the wording of the conditions is recommended.

4. 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 for which the consent was originally granted in that the proposed modification only involves modifying construction hours and restricting the times during which deliveries and waste removal and noisy internal works can occur. No other changes are proposed.

5. ENVIRONMENTAL ASSESSMENT

5.1 Acoustic impact

An Acoustic Statement has been prepared by Arup and is provided at Attachment A. The purpose of the report is to assess the noise impact associated with the extended working hours.

The Acoustic Statement identifies that the most significant noise generating equipment is anticipated to be hand tools, installation of work platforms and arrival of light vehicles to site. The additional light vehicle movements during the extended hours are not anticipated to generate a noticeable increase to existing traffic noise levels. No external works, major deliveries of materials or removal of waste are proposed to take place during the extended hours.

The proposed construction work will be done internally and will therefore be acoustically screened by the existing building envelopes. The assessment indicates that due to the minor nature of noise generated by the proposed works and the acoustic screening provided by the existing building envelope, construction noise impacts during the extended hours are not anticipated to generate significant noise disturbance to the community.

Given that Saturday afternoons are considered a more sensitive period of the week than standard construction hours and also that the closest noise sensitive receiver, View by Sydney, holds events on Saturday afternoons, Arup recommends noise management measures be implemented during the proposed extended hours. The recommendations are summarised as follows:

- close consultation with surrounding receivers, including periodic liaison and using the existing 1800 number to monitor any issues
- scheduling of demolition of internal partitions or works affecting common partitions to neighbouring receivers, outside of Saturday afternoons.

INSW has adopted a comprehensive Community Communication Strategy to ensure stakeholders and the community are informed about construction works. The focus of the Strategy is on keeping stakeholders and the community informed about the construction so they can clearly understand the different construction phases and works involved, and how impacts will be managed. The recommendations in the Acoustic Statement regarding community consultation are addressed by the INSW Community Communication Strategy.

INSW has undertaken consultation with the Precinct Management Association and the owner of View by Sydney regarding the proposed extension to Saturday construction hours. None of these stakeholders raised objections to the extended hours provided that all construction work carried out during the extended period is confined to internal works, and no major truck deliveries or waste removal is undertaken. As noted in section 3 above, a new Condition C1A is proposed to ensure that truck deliveries and waste removal do not occur during the

extended hours. Condition 1A also limits noisy internal activities to standard construction hours.

It should be noted that no complaints regarding construction noise have been received to date (refer Inquiry Line Register at Attachment B).

5.2 Transport and Accessibility

The extension of construction hours is not anticipated to result in adverse traffic impacts, particularly as no deliveries or waste removal will be undertaken during the afternoon period. Similarly, traffic impacts from site workers accessing the site are expected to be minimal. Dawes Point has very limited parking and, in accordance with the Construction Traffic Management Plan adopted for the project, all site workers are actively encouraged to take public transport to and from the precinct. The 311 and 325 bus services operate along Hickson Road on Saturdays, and the site is within reasonable walking distance to the Barangaroo and Circular Quay ferry wharves and the Wynyard and Circular Quay Train Stations.

6. SUITABILITY OF THE SITE

The site remains suitable for the proposed development for the reasons outlined in the Environmental Impact Statement lodged with the original State Significant Development Application. The proposed extension to construction hours will have minimal impact on the site or surrounds.

7. PUBLIC INTEREST

The redevelopment of the Walsh Bay Arts Precinct is a priority infrastructure project for the NSW Government. The redevelopment will create a public arts and cultural hub on Sydney's famous waterfront, while preserving its iconic heritage. The proposed modification to the construction hours will help ensure the project is delivered in a timely fashion with minimal environmental impact. As such, the proposed modification is in the public interest.

8. CONCLUSION

The proposed modification seeks approval to extend construction hours on Saturdays. The proposed modification involves amending Condition C1 and inserting a new Condition C1A to:

- allow for construction works to be carried out on Saturdays between 8am and 5pm (previously 8am to 1pm)
- ensure no construction material deliveries or removal of waste occur between 1pm and 5pm Saturdays

- ensure any construction work carried out between 1pm and 5pm Saturdays relates to internal works only, apart from demolition of internal partitions or works affecting common partitions to neighbouring receivers, which will be restricted to standard construction hours.

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

- of minimal environmental impact
- substantially the same development as development for which the consent was granted.

The extension of construction working hours is proposed in order to ensure a timely completion of the project. The Acoustic Statement prepared by Arup has concluded that due to the minor nature of noise generated by the proposed works and the acoustic screening provided by the existing building envelope, construction noise impacts during the extended hours are not anticipated to result in significant noise disturbance to the community. The noise management measures recommended by Arup will be implemented through INSW's Community Communication Strategy for the site as well as through proposed Condition C1A, detailed in section 3 of this letter.

We trust that this information is sufficient to enable a prompt assessment of the proposed modification request.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Nicola Gibson', written in a cursive style.

Nicola Gibson
Director

Attachment 1

Acoustic Statement

Your ref
Our ref 259997
File ref

ARUP

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25 February 2020

Dear Tom,

Walsh Bay Arts and Cultural Precinct Upgrade Acoustic statement of extension of construction hours

This letter outlines a proposed extension to the construction hours associated with the Walsh Bay Arts and Cultural Precinct upgrade and provides noise mitigation options to minimise impacts to the surrounding community. The extension of hours is proposed to improve productivity on site in the interest of maintaining programme.

Noise and vibration impacts associated with the construction works during standard construction hours have been assessed for the SSD8671 application in the “*Walsh Bay Arts and Cultural Precinct SSDA – Noise and Vibration Impact Assessment*” [WBACP Report] (Arup, October 2017), and for the SSD7561 application in the “*STC50 SEARs – Noise and Vibration Report*” [STC Report] (Arup, November 2016).

The proposed extension of construction hours is as summarised in Table 1.

Table 1: Proposed extension of construction hours

Day	Approved hours	Proposed change
Monday to Friday	7.00am to 6.00pm	No change
Saturday	8.00am to 1.00pm	1.00pm to 5.00pm – limited to internal works in Pier 4/5 and associated shore sheds only, no major deliveries of materials or removal of waste.
Sunday	No construction	No change

1 Proposed works during extended hours

Proposed activities to take place during the extended hours are outlined below.

Pier 2/3

- No proposed works

Pier 4/5

- Construction of internal partitions
- Installation of building services
- Installation of internal finishes and joinery
- General fitting out and commissioning

The most significant noise generating equipment are anticipated to be hand tools, installation of work platforms and arrival of light vehicles to site. The additional light vehicle movements during the extended hours are not anticipated to generate a noticeable increase to existing traffic noise levels.

No external works, major deliveries of materials or removal of waste are proposed to take place during the extended hours, only tradesman's vans.

2 Anticipated noise and vibration impacts

The proposed construction work will be done internally and will therefore be acoustically screened by the existing building envelopes. The heritage nature of the development means that many of the existing elements are being retained and the works will primarily involve the construction of new internal partitions, installation of new items and general fitting out and commissioning.

The movement of tradesman's light vehicles on site are not anticipated to generate significant noise impacts.

Due to the minor nature of noise generated by the proposed works and the acoustic screening provided by the existing building envelope, construction noise impacts during the extended hours are not anticipated to generate significant noise disturbance to the community.

It is noted that no complaints related to construction noise have been lodged to date.

Vibration impacts generated as part of internal works are not anticipated to significantly impact human comfort or cause structural damage at surrounding receivers.

It is noted that Saturday afternoons is considered a more sensitive period of the week than standard construction hours. In addition, the closest noise sensitive receiver, View by Sydney, hold events on Saturday afternoons. Noise management measures are therefore recommended for works during the proposed extended hours.

3 Recommendations

In addition to the noise management measures outlined in the WBACP Report and STC SSDA Reports, the following noise mitigation measures are recommended for proposed out of hours works.

3.1 Community consultation

In order to manage noise impacts of proposed work on Saturday afternoons, close consultation with surrounding receivers, both residential and non-residential, is

recommended. This is to both pre-empt potential issues involving noise during extended hours and also to provide feedback following events which have generated disturbance.

Periodic liaison (i.e. once per week) with the community is recommended as part of the WBACP Report. Upcoming noisy activities during late Saturday afternoons should be identified during these discussions, and updates on upcoming noise sensitive events should be obtained, such as functions at View by Sydney.

A 1800 number has been established for site inquiries, and any calls identifying upcoming noise sensitive events during the proposed extended hours should be fed back to those responsible for scheduling of activities, described in Section 3.2. The register of complaints which has been maintained to date should be continued throughout the duration of works.

It is understood consultation has been undertaken with surrounding receivers, including:

- View by Sydney, who support the proposal.
- Precinct Management Association and Manage-meant representing the residences within the precinct, who generally support the proposal.

3.2 Scheduling of activities

- Schedule noisy internal activities, such as demolition of internal partitions, outside of Saturday afternoons.
- Schedule works affecting common partitions to neighbouring receivers, outside of Saturday afternoons.

Yours sincerely



Mathew Simon
Senior Acoustician

Attachment 2

Inquiry Line Register

Date of complaint	Complainant	Nature of complaint	Response	Complaint status
18/10/2018	Walsh Bay Precinct Association	Non-compliance with conditions of consent relating to the Communications Strategy and Construction Pedestrian Management Plan.	Infrastructure NSW investigated the concerns and it was confirmed that conditions of consent were adhered too. On 13 November, Infrastructure NSW briefed the precinct association communications and pedestrian management arrangements during the construction period.	Closed
26/11/2018	Client who has engaged local business and venue for upcoming wedding	Concern about the impacts that construction and associated hoardings would have on upcoming wedding day in October 2019. Stakeholder was unaware of Walsh Bay Arts Precinct project and the impact this would have on their wedding. Infrastructure NSW clarified that the information included in the stakeholder's complaint letter was in reference to previous 2017/2018 Walsh Bay refurbishment works.	Infrastructure NSW clarified details and timelines for the current Walsh Bay Arts Precinct works and advised that hoarding would be in place for duration of construction works - until completion in 2020. Infrastructure NSW advised the stakeholder to contact wedding venue to discuss potential impacts to their wedding day.	Closed and response issued to complainant
27/11/2018	Pottinger Street Resident	Use of Pottinger Street Bridge to access project – resident believed the bridge would be used sparingly. Furthermore, machinery movement along bridge left debris on road.	RCC investigated the concern on 27/11/2018, and cleaned debris off road as soon as the complaint was received. Furthermore, a non-conformance was issued to the relevant contractor. A site toolbox / meeting was held with RCC and relevant contractor to ensure this does not occur again and the correct procedure is used moving forward. RCC can confirm the Pottinger Street bridge will be used sparingly to delivery machinery to Level 1. All future deliveries will occur on the bridge and not on Pottinger Street.	Closed and response issued to complainant

4/12/2018	Client who has engaged local business and venue for upcoming wedding	Concern about the impacts that construction and associated hoardings would have on upcoming wedding day in October 2019. Stakeholder was unaware of Walsh Bay Arts Precinct project and the impact this would have on their wedding.	Infrastructure NSW explained Walsh Bay Arts Precinct began in September 2018. Infrastructure NSW clarified details and timelines for the current Walsh Bay Arts Precinct works and advised that hoarding would be in place for duration of construction works - until completion in 2020. Also advised that external scaffolding could be erected. Infrastructure NSW advised the stakeholder to contact wedding venue to discuss potential impacts to their wedding day.	Closed and response issued to complainant
11/12/2018	Client who has engaged local business and venue for upcoming wedding	Concern about the impacts that construction and associated hoardings would have on upcoming wedding day in April 2019. Stakeholder was informed by venue that there would be no visual impacts from construction works. After visiting site, they have found there is a visual impact from the hoarding.	Infrastructure NSW clarified details and timelines for the current Walsh Bay Arts Precinct works and advised that hoarding would be in place for duration of construction works - until completion in 2020. Also advised that external scaffolding could be erected. Infrastructure NSW advised the stakeholder to contact wedding venue to discuss potential impacts to their wedding day.	Closed and responses issued to complainant
7/1/2019	Relative of client who has engaged local business and venue for upcoming wedding	Concern about the impacts that construction and associated hoardings would have on upcoming wedding day in April 2019. Stakeholder was informed by venue that there would be no visual impacts from construction works. After visiting site, they have found there is a visual impact from the hoarding.	Infrastructure NSW clarified details and timelines for the current Walsh Bay Arts Precinct works and advised that hoarding would be in place for duration of construction works - until completion in 2020. Also advised that external scaffolding could be erected. Infrastructure NSW advised to contact at later date for update on construction.	Closed and response issued to complainant

16/1/2019	Relative of client who has engaged local business and venue for upcoming wedding	Concern about the impacts that construction and associated hoardings would have on upcoming wedding day in April 2019. Stakeholder was informed by venue that there would be no visual impacts from construction works. After visiting site, they have found there is a visual impact from the hoarding.	Infrastructure NSW clarified details and timelines for the current Walsh Bay Arts Precinct works and advised that hoarding would be in place for duration of construction works - until completion in 2020. Also advised that no external scaffolding will be erected on date of wedding. Infrastructure NSW advised to contact at later date for update on construction.	Closed and response issued to complainant
25/1/2019	Pier 6/7 resident	Resident made numerous calls to enquiries 1800 line, however did not receive any call backs from project team. Resident also expressed that level of project information provided through updates is not adequate.	Infrastructure NSW investigated the issue and found there was a technical issue. The issue has been rectified. Infrastructure NSW noted feedback.	Closed and response issued to complainant
27/2/2019	Community member	Concern about no information regarding the project, project need and project cost on hoarding at Wharf 4/5 and Pier 2/3.	Infrastructure NSW noted feedback and advised all project information is on the website.	Closed and response issued to complainant
26/3/2019	Walsh Bay Precinct Management Association (PMA)	Safety concern regarding broken glass found on pedestrian footpath. Glass was from a broken window within the construction area.	Richard Crookes Constructions investigated the issue and have put in place a number of corrective and preventative measures including a buffer/exclusion zone to works carried out near windows and ensuring that the buffer/exclusion zones are communicated in site toolbox talks and site inductions.	Closed and response issued to PMA
15/7/2019	Walsh Bay Precinct Management Association (PMA)	Complaint regarding temporary lights inside Wharf 4/5 shining into nearby apartments over the weekend.	Richard Crookes Constructions investigated the issue and turned off the lights after work the following Saturday was complete.	Closed and response issued to PMA
22/7/2019	Walsh Bay Precinct Management Association (PMA)	Follow up regarding temporary lights inside Wharf 4/5 shining into nearby apartments over the weekend.	Richard Crookes Constructions investigated the issue and re-orientated the lights away from the window and fixed the timing mechanism.	Closed and response issued to PMA

9/10/19	Local resident	Complaint regarding worker behaviour.	Richard Crookes Constructions investigated the issue and addressed with site personnel.	Closed
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