

I have examined the 50 pages of the response report and its numerous attachments. Due to the extreme time restrictions placed on me by the inappropriate and inequitable time restrictions imposed by the Department, it has not been possible to read it as thoroughly as I would have wished.

Inconsistencies between various consultants' reports and assessments persist and a number of significant issues which directly impact on our home have not been addressed or assessed for their impact. Recommendations made by some consultants have neither been commented upon or incorporated into the design. Significant design details have not been provided for assessment.

Where such situations occur, it is important that officers assessing the application on behalf of the Consent Authority assume a worst case scenario, being that of greatest negative impact on nearby residents, the local area and Campbell's Stores itself. It is not unreasonable to assume that with the mountain of reports and documents submitted in support of the application, if specific design details have been omitted or not assessed, it is because to do so would not support approval of the application.

The objections that I raised to the original application are still relevant and apply to the amended application. I make the following specific objections to the proponents' response:

Failure to respond to key issues

No response has been made in respect to:

1. The incorrect name of the application, which the applicants have submitted under Schedule 2 of the E, P & A Regulations 2000. This name fails to mention the proposal to erect a 4 storey building between Campbell's Stores and the Park Hyatt.
2. The failure to examine alternative development options as required by Section 1.3 of the EIS and specifically the failure to assess a no new building option.
3. The proposal to have a 'open window' ventilation design and the consequent noise impact this will have on residents and guests of the Park Hyatt, by failing to contain amplified and other noise within the premises.
4. The applicants' undertaking to residents of 8 Hickson Road that the hours of operation would be restricted to the existing hours of operation of between 7.00am and 11.00pm with occasional operations until midnight.
5. The failure of the noise assessment report to assess the impact on residents at 8 Hickson Road and guests of the Park Hyatt of noise from the mechanical exhaust system proposed for the roof of Bay 11 and the 'open window' ventilation design.
6. The potential visual impact of the proposed 4 storey building should the existing fig tree be removed in the future and, as a consequence, it no longer being available to screen what the visual impact statement suggested was the obtrusive nature of the proposed building.
7. The failure of the visual impact statement to examine the impact of the proposed mechanical exhaust system, on the roof of Bay 11, on the views from our apartment at level 3, 8 Hickson Road.
8. Conflicting information in various consultants' reports and the failure of some consultants to assess the impact of other consultants' recommendations.
9. The apparent illegality and unapproved status of the single storey structure that has been erected at the northern end of Campbell's Stores.

Specific objections to the Campbell's Stores component of the application

1. The proposed hours of operation from between 6.00am and 2.00am will result in noise impact, loss of amenity and substantial disturbance in the early hours of the morning. The noise impact will be from noise generated from within the premises,

particularly amplified music, noise generated by patrons leaving the premises in the early hours of the morning and noise associated with cleaning and servicing operations before 7.00am.

The fact that the licence issued by the Liquor and Gaming Authority allows trading to 2am is irrelevant to the Consent Authority's responsibility and power to prevent noise impact and loss of amenity. The Consent Authority should impose more restrictive trading hours than those imposed by the Liquor licence.

Trading to 2am is a substantial increase of trading hours from those that have existed for many years and extend noise emissions into times that are most sensitive to nearby residents and likely to result in substantial disturbance.

The noise disturbance from noise generated from within the premises will be particularly significant as a consequence of the 'open window' ventilation design that will fail to contain noise within the premises.

Extending the hours of operation is contrary to the advice given and undertakings made to residents by Chris Drivas on behalf of Tallawoladah Pty Ltd at a meeting with residents of 8 Hickson Road prior to the submission of the original development application. It is also contrary to the description of the development in the applicants' Request for DGRs for State Significant Development. This request explicitly states 'as per existing trading hours' not as per hours contained on the Liquor licence.

The proposed passive ventilation design will require Campbell's Stores' windows and doors to be open for much of the year. The 'open window' ventilation design will fail to contain noise within the premises, particularly amplified music, resulting in significant noise impact on the residents of 8 Hickson Road and the guests of the Park Hyatt.

Anyone with any experience of entertainment premises knows that negative noise impact is a consequence of failure to contain noise generated from within the premises. The proposal is effectively designed to fail to contain noise. Not only will this failure result in substantial impact on residents, it will also lead to ongoing enforcement issues for the City of Sydney and operational issues for the venue operators. Enforcement will be even more difficult as a consequence of the multiple tenancies proposed.

The existing operations of Campbell's Stores result in excessive noise disturbance to residents on occasions when the doors accessing Hickson Road are left open. The operation of the premises as proposed will substantially increase this negative impact and in fact, make it a permanent feature.

2. The proposal to relocate **all** the mechanical exhaust system from the southern end of the building to the roof of Bay 11 will result in substantial impact on our amenity due to noise, vibration, smell and fumes emitted from the exhaust system and its close proximity to the windows of our apartment. It will also have a significant impact on other residents at 8 Hickson Road and the guests of the Park Hyatt.

That part of the existing exhaust system which already comes through Bay 11 of Campbell's Stores causes problems of smoke, smell and noise onto Hickson Road and specifically our apartment. The applicants' proposals will make this far worse and effectively direct these negative impacts to our residential building and to the Park Hyatt Hotel.

The very significant problems of smoke, smell, noise and fat dropping onto the footpath of Hickson Road from the recently installed exhaust system associated with the Ribs and Burgers restaurant located opposite Campbell's Stores clearly shows that even a modern, supposedly state of the art exhaust system fails to remove amenity impacts.

The operation of this particular system has necessitated the part closure of the western footpath on Hickson Road and Council prosecution. SHFA is also the owner of this property and has failed to exercise any control over the tenant or

adjustment to the system to prevent the substantial amenity impacts of the exhaust system.

The proposed exhaust system at Bay 11 Campbell's Stores will result in similar amenity impacts on the residents of 8 Hickson Road. The system is proposed to operate all day and into the early hours of the morning. The impacts will be substantial and would prevent us opening the windows to our living room and bedroom.

The applicants' consultants have provided noise and mechanical ventilation reports. These both acknowledge that the roof of Bay 11 is the location of greatest sensitivity and likely to have the greatest amenity impact.

The location of the mechanical exhaust system within Bay 11 will not only result in substantial loss of amenity for residents but also ongoing enforcement issues for the Council of the City of Sydney and operational issues for the tenants.

The proposed multiple tenancy arrangement will make any enforcement slow and complex with the offending tenant difficult to identify.

3. The proposed risers and noise baffles for the mechanical exhaust system on the roof of Bay 11 will substantially and negatively impact on our views of the Sydney Opera House and Sydney Harbour from the living room and bedroom of our apartment on level 3, 8 Hickson Rd.

Even though the applicant has not submitted a detailed design for the mechanical exhaust system both the mechanical ventilation report and noise impact report state that in order to reduce smoke, smell and noise impacts of the system a riser of unspecified height and noise baffles will be required on the roof of Bay 11.

Any such structure located above the existing gable of Bay 11 will be unsightly and will have a substantial negative impact on our significant views of the Opera House and Harbour. As with other factors, there is clearly not enough information for the Consent Authority to assess.

Conditions essential to any approval

Good design should seek to minimise potential amenity impacts and avoid the necessity of compliance by enforcement. The application fails to do this. Should the Consent Authority approve the part of the application in respect to the existing Campbell's Stores building then the following conditions should be attached to the approval:

1. The hours of operation should be restricted to between 7.00am and midnight. No operations, including deliveries, waste collection, bottle collection, grease trap servicing, cleaning or garden maintenance should be carried out outside these hours.
2. Windows or doors opening onto Hickson Road should be kept closed at all times and windows should be fixed in a closed position. In respect to openings required for access to Hickson Road, air lock style automatic opening and closing doors need to be fitted and designed, installed and operated so that one of each pair of doors will always be in the closed position at any given time.
3. All of the mechanical exhaust system including machinery, flues, vents and baffles should be positioned at the southern end of Campbell's Stores so as to minimise noise, fumes and smell impacts on the residents of 8 Hickson Road, guests at the Park Hyatt hotel and people working in the offices buildings at 6 and 10 Hickson Road.
4. There should be no penetrations, structure or any plant, including flues, vents, plant or equipment located through or on the roof of Bay 11.

The proposed new building

In respect to the proposed four storey building to be located between Campbell's Stores and the Park Hyatt hotel, I make the following comments and objections:

1. The applicants' amendments to reduce the height of this building and other design modifications are minor and fail to address its unsympathetic nature; its dominating appearance on the streetscape and foreshore; its screening of the entire northern elevation of Campbell's Stores; and its effective 'burial' of the ground floor of the Stores' northern elevation. The amendments fail to maintain the existing 'stand alone' setting of Campbell's Stores, which enables it to be seen in the round.
2. Despite the minor reduction in the height of the proposed building, it will still clearly dominate Campbell's Stores. This is evident in Figure 13, p.35 of the 'Response to Submissions' and in Figures 6.13, 6.15 and 6.16 of p.25 of the Appendix B1 Design Response Report, Part 3. If this structure was to be approved, conditions should limit its height to no greater than the gutter height of Bay 11 and reduce its width to no more than nine metres so as to be consistent with the built form of the bays within Campbell's Stores. The two metre reduction in width should be provided to increase the space between the building and Bay 11 to a width of 6 metres so as to also improve the visibility of Campbell's Stores' northern elevation.

3. I consider comments in the reports to the effect that Campbell's Stores historical context is one of a continuous street façade to be inaccurate and misleading.

It is undisputed that, with the exception of the illegal single storey pavilion structure, the site of the proposed building has been unbuilt upon and the northern elevation of Campbell's Stores has been clearly visible from Hickson Rd. since the very early twentieth century, c. 1915. For more than 100 years and for the greater part of its existence, there has been no structure on the land immediately to the north of the Stores except for the illegal pavilion structure. Further, even in the time prior to c.1915, there was only a single storey cottage on this land not a multi-storey structure forming a continuous streetscape.

The continuous streetscape that did exist in 1870 comprised nineteenth century buildings of similar height and design. It no longer exists.

The 1987 SCRAS and the subsequent construction of the Park Hyatt Hotel clearly intended that Campbell's Stores be free-standing with the separation between the Bay 11 and the Park Hyatt reflecting that between Bay 1 and the ASN Co building at the southern end of the Stores. The applicants have not provided any argument to support the variation of this scheme. The area to the north of Bay 11 should be kept free. It is not an infill site.

4. The reports concerning the visual impact of the proposed building and the impact on visual linkage to the harbour and the Opera House are inaccurate, misleading and fail to assess its real impact.

The visual analysis is from street level and seeks to make the comparison between the proposed views after the erection of the four storey building and the 'existing views'. The 'existing' views are obstructed by what all the consultants and advocates for the proposal refer to as the inappropriate and intrusive structure and tree (not the fig tree) on the northern side of Campbell's Stores. I agree that the illegally constructed pavilion and this tree are intrusive and inappropriate and, in accordance with recommendations, both should be removed.

The building has been erected illegally during various tenancies, including the current tenancy and by gradual modifications over a number of years. It is totally inappropriate, and, in my view a bad and dangerous practice, to use an 'existing' situation brought about by illegal work, as the base case for any comparison with what is proposed here.

The comparison for assessing visual impact and connectivity between Hickson Rd and the Harbour should be on the basis that this illegal structure and inappropriate tree do not exist. A comparison on this basis would show that the

proposed four storey building would have a substantial visual impact, including obstruction of views of the Opera House and reduction in connectivity.

Any determination of the application without a visual impact analysis and connectivity assessment on the basis of no illegal structure and inappropriate tree will be flawed. An analysis on this basis, incorporating an impact assessment, needs to be carried out before any determination of the application.

5. No analysis has been made of the effect of night time light emissions from the proposed four storey 'glass box' building. Due to the use of translucent building materials, the proposed building has the potential to act like a light bulb when internally illuminated at night. This would be totally out of character with the soft lighting used throughout The Rocks and could result in light spillage onto nearby properties including the Park Hyatt and 8 Hickson Road, once again with consequent loss of amenity.

I maintain my objections to the proposed four storey structure for the reasons stated in my previous submissions.

The amendment of the application to nominate the use of the proposed building for retail purposes will reduce the operational impact on our amenity compared to the very substantial impacts that would be arise were the proposed building to be used for restaurants, bars and entertainment venues particularly in respect to hours of operation, noise and patron behaviour.

There have been occasions in the past where approval has been sought and granted for buildings with a proposed use that has a low impact on the amenity of nearby residents only to have a change of use approved subsequently to a high impact use once the building has been erected.

I remain strongly opposed to the erection of the proposed structure in this location. However, should the Consent Authority decide to approve the building, the development consent should require that the applicants submit evidence to the satisfaction of the Consent Authority, that binding agreements have been entered into for the use of the proposed building for retailing. This should be done prior to the issue of any construction certificate or approval for the erection of the building. Should such evidence not be submitted, or be considered unsatisfactory, then the consent for the proposed building should be void and a new development application be required to be submitted for the erection and use of the building.

John Sidoti