

Submission in response to 2<sup>nd</sup> amended application for SSD 7056.

Please read this submission as well as those I have already submitted in response to the applicant's original (November 2015) and amended proposal (May 2016) with the exception of points made about the now abandoned plans to construct a 'glass box on stilts' alongside Campbell's Stores.

## **Process**

Two weeks is not enough time for anyone to read, understand and comprehensively respond to Tallawoladah's second amended application. This is especially true for those most affected by the proposals i.e. the residents at 8 Hickson Road, The Rocks and the management of the Park Hyatt Hotel.

This lack of time is also a problem because the information the applicant provides is not always organised in a logical way. Important details can be hidden within sections where you would not expect to find them e.g details of the anticipated number of patrons (2,400) is found within the Waste Management Plan. The inadequacies of the time frame deny respondents the time required for the ferreting methods the organisation of the application demands.

Tallawoladah's application has from Day 1 threatened the amenity of my home, the homes of my fellow residents at 8 Hickson Road and the environment in which we live and which is a drawcard for other Sydneysiders and tourists alike. The time frame for submissions does not allow any of these stakeholders to fully assess the extent to which this threat may have been mitigated, reinforced or ignored in the applicant's 'Response to Submissions Report \_ Second Round'.

The restricted time frame and the complexity, inadequacies and sometimes misleading organisation and nature of the information provided, places a financial burden on those who seek to understand it before responding. In taking seriously the need to fully understand the nature of Tallawoladah's proposals and the reading demands of the application, our Body Corporate has had to engage a heritage architect (Clive Lucas and Associates), an urban design expert (Gabrielle Morrish), a town planner (Sarah Kelly), and now, additionally, an acoustics engineer (Steven Cooper) and an environmental engineer (Peter Stephenson). These are five people all highly respected in their chosen fields. They provide a degree of analysis and information absent in the original and amended applications.

Obtaining such experts within limited time frames is very difficult and even given their expertise, it is still a huge effort to have the required reading, analysis and report writing done within the time specified. It should not be this hard or financially burdensome to protect one's rights and ensure that decision makers are fully informed of the implications of the applicant's proposals.

## **Heritage**

I am happy to see that the applicant has decided against pursuing the construction of the 'glass box on stilts' previously proposed for the area immediately adjacent to the northern end of Campbell's Stores.

This now creates the opportunity to return that space to something akin to what earlier decision-makers envisaged and so reveal more of the Stores' heritage features and enhance

opportunities for the public to appreciate the Stores as a stand-alone industrial building within its maritime setting. The removal of the proposed box will protect the existing rhythm of space to built form along both the foreshore and the Hickson Rd streetscape.

It is good to see that the illegally constructed building at the northern end of the Stores will be removed.

It is also good to note that these amended proposals incorporate some accommodation of the needs of people with limited mobility and those in wheelchairs.

## **Amenity**

Consent authorities, especially the Department of Planning, and the yet to be formulated Planning Assessment Commission (PAC) have insufficient information to assess the amenity impacts of SSD 7056.

The applicants have still not provided this information and their consultants still provide more 'advocacy' than genuine assessment of the environmental impacts of their proposals. Despite having time and the responsibility to do so, it seems the applicants and their consultants choose vagueness over the supply of the essential detail and genuine analysis that could undermine their case for approval. The applicants expect their proposals to be taken on trust rather than providing the analysis necessary to determining if they are feasible in terms of preventing negative impacts on amenity.

On that basis, one can only assume the worst in relation to amenity impacts on the residents of 8 Hickson Road.

## **Mechanical exhaust issues**

### **1. Inappropriate location and loss of visual amenity**

The applicants' consultants must know the kinds of systems required for the kitchen operations planned for Campbell's Stores. Yet they provide little detail on the nature of proposed mechanical ventilation, its appearance or its effectiveness.

Their key proposal is to locate the mechanical ventilation system in the roof of Bay 11, the location they acknowledge is the most 'sensitive' because of its proximity to the residents of 8 Hickson Road immediately opposite and to guests at the 5 star Park Hyatt hotel right next door. This proposal is totally inconsistent with the expectation that there be no or at least minimal negative environmental impacts on residents.

My apartment has a stunning and unique view, which should not be compromised in this way. It looks directly onto the gabled bays and saw-toothed roofline of Campbell's Stores and beyond that directly onto Sydney Harbour and the Opera House. Yet the applicant wants to locate the mechanical exhaust system for the Stores' proposed thirteen dining areas (whose individual tenancies are yet to be determined) directly across from me and my fellow residents at 8 Hickson Road, the location with the greatest negative impact on amenity. This would limit our exceptional views of the harbour and Opera House and our enjoyment of our home.

While there is no detailed mechanical exhaust proposal to indicate how related problems would be addressed, the applicants have provided some information about what they envisage for the roof of Bay 11 (see the Roof Plan, EA-A-1005 Revision C and Level 04 Plan, EA-A-

1005 Revision C). These plans show 18-20 kitchen exhaust fans discharging through the roof of Bay 11, which would effectively become a massive exhaust system 25 metres from our building and discharging directly towards it.

The applicants have still not clarified details of the increased heights of risers or the design of accompanying noise barriers that their consultants say would be needed to reduce any negative noise and fume discharge impacts. These noise and fume mitigation devices will substantially impact on our Opera House views and the enjoyment of our home. Further assessment needs to be undertaken to assess noise impacts and address any acoustic and screening measures as part of this application, so that appropriate heritage and visual impact assessments can be prepared. Once again, this should have been included in the application.

Authorities should not consider approval of SSD 7056 until the applicants provide images showing how such devices would look and information on how they would operate. Any protrusions in the roof lines in Bays 9, 10 and 11 is going to interrupt and potentially negate our views of the Opera House.

For these reasons, all mechanical exhaust should be located at the southern end of the Campbell's Stores building where it can have neither physical nor visual impact on residents' enjoyment of their homes and the views these provide.

## **2. Effectiveness and enforcement**

Currently, mechanical exhaust comes from both ends and the centre of the Campbell's Stores building. Residents in our building, and indeed anyone walking from George St down this section of Hickson Rd, already suffer problems of smoke, smell and noise emissions from the existing ineffective exhaust systems at either end of the Stores and, in particular, from Bay 4. These service the existing four restaurant venues and they operate at all hours of the day and night. We can only assume that, in the absence of details about proposed mechanical exhaust systems at planning stage, more restaurants will only exacerbate such problems.

Ineffective exhaust systems pollute the environment and place authorities in the position of having to make ongoing attempts to enforce standards. Locals in The Rocks are well aware of this in relation to 'Ribs and Burgers' at the George St intersection with Hickson Rd. Since opening in 2015, the supposedly modern, exhaust system this restaurant uses has consistently discharged smoke, grease and cooking odours onto passers-by. As a result, from time to time authorities have had to erect barriers across the western footpath to protect pedestrians.

The Rocks' main landlord, SHFA, has failed to control its tenants failures in this regard. City of Sydney Council has twice taken Ribs and Burgers to court to enforce standards and enact fines. During this lengthy, costly and laborious process, pollution from smoke, cooking smells, noise and fat dropping has continued to impact negatively on people's enjoyment of a stroll down this section of Hickson Rd.

It is essential that the applicants provide details of the mechanical exhaust systems proposed in advance of any approval being granted.

## **Noise issues**

Despite Acoustic Logic's claims to the contrary (see Noise and Vibration Impact Assessment 2.1), from what I can see, there is no evidence to support claims of any valid assessment of noise and vibration impacts on residents at 8 Hickson Road. From what I can tell, the

consultants have failed to take any valid noise readings. They rely on predictions based on computer software modelling and offer little more than lists of goals and tables of noise levels that are considered acceptable. All very nice but where is the data related to the impact of what is actually proposed? While this consultant's report creates an illusion of scientific methodology, the methods underpinning it lack rigour and validity.

There has been no assessment of the noise impact of outdoor dining. The applicants propose a vastly increased outdoor dining area (double the existing) on the eastern façade of Campbell's Stores, outdoor dining in the centre of the western (Hickson Rd) façade and now additional outdoor dining for 50 people on the northern façade of Campbell's Stores and 60 people at the north-western corner – both fronting Hickson Road. Noise emissions in all four areas are of particular significance to residents at 8 Hickson Road. It is possible that outdoor dining noise on the eastern faced will have less of an impact, but in the absence of any valid assessment from the applicants' consultants, it is impossible to judge this accurately.

We expect to be able to continue the quiet enjoyment of our homes to which we are accustomed. There should be no amplified sound of any kind in the outdoor areas adjacent to the Campbell's Stores' building and hours of operation should be restricted.

### **Hours of operation**

The proposed hours of operation are excessive. The consultants say that applicants currently have licences to trade until 2 am. That does not mean that planning / consent authorities have to accept this time frame. They can and should vary the hours of operation. Consent authorities have a responsibility to protect residents' rights to the quiet enjoyment of their properties.

Chris Drivas, one of the applicants, assured us that the current operational hours for the Stores would not change. Yet, the proposed trading hours are NOT the current trading hours for the site. Campbell's Stores restaurants currently don't open before around 10 am and close by midnight. This seems reasonable as long as the noise they generate is fully contained within the building.

Allowing restaurants to open at 6 am seven days/week and not close until 2 am six days/week, would have considerable negative impacts on the residents living immediately across the road and guests staying at the 5 star Park Hyatt Hotel next door.

Our peace and quiet would be threatened by noise disturbance with noise, including amplified music, speeches and announcements, emitted from the premises, and the noise of boisterous patrons departing in the early hours of the morning. We would also have to suffer noise from rubbish removal, leaf blowing, bottle sorting and collection and the pumping out of grease traps at all hours of the day and night. Any approvals issued should incorporate enforceable conditions to protect residents and hotel guests from such disturbances at least between the hours of 12 am and 7 am.

Outdoor dining areas may well generate unacceptable levels of noise, especially at night time. We need to be able to open our windows without being confronted by excessive restaurant noise of any kind. We can do that now and should not be denied that right in the future. Any approval of outdoor dining at night should limit hours of operation to an 8 pm closure along the southern façade of the Stores and a 6 pm closure in other areas.

For the same reason, there should be no outdoor trading or functions permitted at the northern section of the Stores or along their western façade after 6 p.m.

The applicants requested ‘flexibility to **periodically** provide for cocktail party capacity and dinner gala space for **2,000 guests**’ (original Architectural Design Statement, Section 3.1.2, p.31). ‘Periodically’ was not defined, nor was it clear whether the 2000 guests would be indoors or outdoors. Both need to be clarified before this application can be determined.

Decision makers need to assess Campbell’s Stores hours of operation on the basis of their cumulative impact. The impact on residents and Park Hyatt guests is that of one large single operation which, according to information in the Waste Management Plan could involve up to 2,400 patrons. This places Campbell’s Stores within Sydney City Council’s classification as a Category A premises. As such, its base trading hours would be from 7.00 am to 11.00 pm for indoor trading and 10.00 am to 8.00 pm for outdoor trading. Without information on the specific nature of the multiple tenancies that would occupy the Stores, there can be no argument for them operating outside these hours. As already indicated, given the proximity of residents just across the road, it seems fair that in Hickson Rd and at the northern end of the Stores, outdoor dining areas should close at 6 p.m.

### **Air quality**

The original and first amended development applications both cited SLR Consulting’s 2015 Air Quality Impact Statement. As I’ve already pointed out, the problem with this was that SLR was ignorant of the existence of residents immediately across the road from Campbell’s Stores and significantly, directly opposite Bay 11, the area designated to accommodate the kitchen exhaust system for the building’s proposed thirteen restaurants. SLR’s report erroneously identified ‘*the nearest residential area ... [as] Miller’s Point, located beyond the Bradfield Highway and Cahill Expressway*’. While describing systems that could be applied to disperse odours, it failed to assess their noise or visual impacts (see Air Quality Impact Statement, Section 9.21).

The 2<sup>nd</sup> amended DA has little to say about air quality but is clearly relying on the same report.

### **Ventilation issues**

Neither the Noise and Vibration Impact Statement nor the Environmental Impact Statement (EIS) appear to have assessed the impact on residents at 8 Hickson and guests at the Park Hyatt Hotel of noise emanating from restaurants and bars as a consequence of the proposed ‘open window’ ventilation design.

This design would necessitate restaurants windows facing Hickson Road being left open for much of the year and so generate a significant and negative noise impact, especially from amplified music or voices, on residents immediately opposite and on locals and others who just want to enjoy a peaceful stroll along Hickson Road or the harbour foreshore.

We currently experience unacceptable noise levels only occasionally when restaurant patrons at Campbell’s Stores leave open doors that front Hickson Road. Under an ‘open window’ ventilation system, we would be exposed to these seven days a week, at any time during the opening hours of multiple restaurant tenancies. Unacceptable noise levels would be a permanent feature of Campbell’s Stores.

This form of restaurant ventilation is unacceptable to residents and would equally prevent visitors to The Rocks enjoying the tranquil atmosphere the area currently provides. Applicants need to provide a ventilation system that can *contain* noise, not broadcast it. The 'open ventilation' system, which the applicants currently propose, would generate ongoing and significant noise problems and so create ongoing complaints and enforcement issues across the multiple tenancies within the building.

## **Conclusion**

It is good to know that the most significant threat to Campbell's Stores heritage – the 'glass box on stilts' – has now been averted. The significant problems that remain are those from proposals that would generate negative impacts on the amenity of residents of 8 Hickson Rd, guests at the Park Hyatt Hotel and all those who seek to enjoy a stroll along Hickson Rd or Campbell's Cove foreshore without being forced to engage in the dining activities emanating from Campbell's Stores.

Tallawoladah's 2<sup>nd</sup> amended application has done little to mitigate negative impacts on the amenity of residents at 8 Hickson Rd. Some of the applicants' consultants have still not even assessed them. Some consultants are unaware that there are residents living close by. It is normal practice to provide specific details of devices for mitigating negative impacts at the time of application. Effectively, no determination can be made without applicant supplying the facts of what is proposed and residents and other stakeholders having the opportunity to respond to them.

Thus, there is good reason to reject SSD 7056 on the basis of the applicants' ongoing failure to both analyse the impact of their proposals on the amenity of residents at 8 Hickson Road and to mitigate residents' valid concerns about them.

Any approval of SSD 7056 should require the mitigation of current negative impacts on amenity through:

- the restriction of operating hours to between 7.00 am and 11.00 pm indoors and 10.00 am to 8.00 pm in outdoor dining areas on the eastern façade and from 10 am to 6.00 pm in other outdoor dining areas.
- the restriction of all servicing operations – e.g. deliveries, rubbish removal, bottle sorting and collection, grease trap servicing, cleaning, leaf blowing or other forms of garden maintenance – to between the hours 7.00 am and 6.00 pm Monday to Saturday only.
- the prohibition of any amplified sound in outdoor areas
- the requirement that any windows and doors on the western and northern sides of the building (those most affecting residents) remain closed at all times.
- the requirement that, if door access to Hickson Road and the northern seating area is necessary, it should only be via air lock style automatic opening and closing doors that have been designed so that one of any pair of doors is always in a closed position.
- the requirement that Bays 9, 10 and 11 should not be permitted to operate as function centres, bars or clubs and that their uses be restricted to restaurants and coffee bars and for the purposes of pedestrian access and circulation.
- the requirement that the applicant provide detailed drawing and explanations of the nature and effectiveness of proposed mechanical systems now at planning stage so that standards are established at the outset. This would obviate problems emanating from systems

installed in a piecemeal manner or retroactively in response to problems emanating from multiple tenancies.

- the requirement that all mechanical exhaust systems be located at the southern end of Campbell's Stores.
- the requirement that that there be no roof penetrations of any kind protruding above the roofs of Bays 9, 10 and 11.
- the requirement that that there be no additions to the Stores that would in any way compromise the exceptional views of the Opera House and harbour currently enjoyed by residents at 8 Hickson Road.

Maureen Sidoti 10 November 2016