

Our Ref: ARB:BES:277
Your Ref: SSD7874_Mod 1

28 April 2022

David Glasgow
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Planning and Assessment Group
NSW Department of Planning, Industry and Environment

By email: david.glasgow@planning.nsw.gov.au
Copy: Renah Givney, renah.givney@dpie.nsw.gov.au

Dear Mr Glasgow

Re: SSD7874_ MOD 1 - Amend Conditions C12 (Respite Hours) and D1 (Dilapidation Report) (MOD 1)

We act for the owners of Strata Plan 49249 which comprises the major residential development known as One Darling Harbour. One Darling Harbour is located at 50 Murray Street, Sydney and is home to approximately 750 residents.

Proposed amendment of Condition C12 (Respite Hours) ought not be approved

1. It is our client's submission that the application for modification of SSD 7874 to amend condition C12 regarding respite hours to be afforded to affected residents ought not be approved.
2. The purpose of the requested modification is to reduce the respite period provided to residents after exceedance of the 75dB(A) highly noise affected target.
3. The current condition C12 is the condition that was recommended by DPIE and is indicative of the type of period of respite that ought be afforded to residents affected by periods of significant noise.
4. The effect of the requested modification would be set a standard of only 1 hour of respite after 5 hours of continuous exceedance of noise targets. We note that the Transport for NSW construction noise guideline provides: "*As a guide work should be carried out in continuous blocks that do not exceed 3 hours each, with a minimum respite period of one hour between each block. The actual duration of each block of work and respite should be flexible to accommodate the usage of and amenity at nearby receivers*".
5. Our client notes that in its submission to the IPC in May 2021, its acoustic consultant recommended the following condition with respect to respite:

Based on the noise monitoring results from the continuous unattended noise monitoring (detailed in C12) and guidance from Council's review of the submitted noise monitoring reports, the Applicant shall provide respite periods to protect the amenity of nearby sensitive receivers and should be scheduled at appropriate times of day to reflect times or periods when receivers are likely to be adversely impacted by adjacent demolition activities. For these activities and any activities predicted to result in exceedances of the Highly Noise Affected Threshold (as identified in the EPA Interim Construction Noise Guideline), respite periods to be adopted as follows (unless other arrangement with the affected noise receivers is agreed):

- a. 7am to 9am (Monday to Saturday)*
- b. 12pm to 1pm (Monday to Saturday)*
- c. 5pm to 6pm (Monday to Friday)*

6. Our client also notes that the permitted hours of work on Saturdays are 8 am to 1pm, accordingly, a "respite" period prior to 8am and after 1pm provides no concession on the part of Mirvac.

Proposed amendment of D1 (Dilapidation Report) requires further amendment

7. In relation to the requested amendment of condition D1 (Dilapidation Report), our client notes that:
- a. having regard to the anticipated duration of demolition, excavation and construction works, it may be 2- 5 years between the pre-works dilapidation survey and the post construction survey;
 - b. the highest risk of damage to our client's building is likely to occur during demolition and excavation works, ie some years prior to any post construction dilapidation survey; and
 - c. the demolition works proposed include demolition of part of a structure attaching to our client's building.
8. In these circumstances, it would be appropriate to require Mirvac to undertake an interim dilapidation survey after completion of the demolition and excavation work where this is requested by the owner of a building in the vicinity of the project.

Our client submits that the proposed modification to condition C12 ought not be approved and the proposed modification of condition D1 requires further amendment.

Yours faithfully



Andrew Beatty
Director

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