



## **Section 75W Modification Project Approval (MP07\_0158)**

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Abercrombie Precinct

Redevelopment, University of  
Sydney

Prepared By McKenzie Group Consulting  
Planning  
**April 2014**

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## **Executive Summary**

McKenzie Group Consulting Planning (NSW) Pty Ltd has been engaged by John Holland Group Pty Ltd on behalf of the University of Sydney to prepare this application pursuant to Section 75W of the *Environmental Planning & Assessment Act 1979* to modify Project Approval MP07\_0158 for the University of Sydney's Abercrombie precinct redevelopment.

Project Approval MP07\_0158 was issued by the Minister for Planning & Infrastructure on 16 November 2012 for a new Business School Faculty building and three student buildings along with 82 car parking spaces at basement level.

Works have commenced on the site, however the approved scheme has undergone revision due to cost related issues associated with the design. More appropriate, cost effective treatments, with greater functional and architectural merit can be achieved through the revised design.

The subject application seeks to modify condition D11 to enable construction associated with this project to be completed on or by 31 January 2015 and meet project deadlines. It is proposed to schedule less noisy construction activities outside of standard construction hours. The Project Approval stipulates that construction must take place between 7am-6pm Monday to Friday and between 8am-3pm on Saturdays. The proponent is seeking to extend the construction hours from 6pm to 12 midnight Monday to Friday and 3pm to 10pm Saturdays resulting in considerably less noisy construction activities.

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## **PART A. PRELIMINARY**

### **1.1 Introduction**

This Modification to Project Approval 07\_0158 under Section 75W of the *Environmental Planning and Assessment Act 1979* has been prepared by McKenzie Group Consulting Planning (NSW) Pty Ltd for John Holland Group on behalf of the University of Sydney.

The proposal seeks to modify Project Approval MP07\_0158 (**Appendix 1**) to enable the construction hours on the site to 12 midnight Monday to Friday and to 10pm on Saturdays. All construction work during these extended hours will be internal.

Modification to the project approval is in response to the need to ensure the development can be delivered in a time and cost effective manner, whilst ensuring there will be no unacceptable impacts on the surrounding environment.

At the time of the Project Application, the aforementioned modifications were not envisaged, and as such, modification is required under Section 75W of the *Environmental Planning and Assessment Act 1979*.

The report is arranged as follows:

- Part A Preliminary
- Part B Site Analysis
- Part C Proposed Modifications
- Part D Legislative and Policy Framework
- Part E Environmental Assessment
- Part F Conclusion

### **1.2 Development Background**

The original Environmental Assessment submitted with the Project Application identified the need for a new integrated Business Faculty that places less strain on the existing infrastructure and meets modern teaching requirements. At present, the Business Faculty teaches in 20 buildings scattered throughout the campus, thus the travel distances and times are deemed unacceptable for staff and students adding to inefficiencies in the day to day operations.

On 5 November 2009, Director-General's Requirements (DGRs) were issued pursuant to Section 75F of the *Environmental Planning & Assessment Act 1979*. The key assessment requirements for the Project Application were:

- Relevant EPIs and guidelines
- Built Form/Design and Visual Impacts
- Environmental and Residential Amenity
- Transport and Accessibility
- Heritage
- Safety/Public Domain Landscaping
- Social Impacts
- Ecologically Sustainable Development
- Stormwater Flooding
- Public Services/Infrastructure and Utilities
- Staging
- Potential On-Site Contamination
- Dedication

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Based on the merits of the Project Application and the long term education benefits associated with the provision of a new Business Faculty and associated facilities, the NSW Planning Assessment Commission granted approval to Project Application MP07\_0158 on 16 November 2012 for:

- site remediation;
- lot consolidation and subdivision into two lots for the business school and student accommodation building;
- demolition of all existing structures, except part demolition only of the Faculty of Business and Economic building and reuse reinterpretation of the Joiners Workshop building facade;
- excavation and bulk earthworks across the site for basement and lower ground levels and services;
- construction of a new car park, comprising two basement levels for 82 car parking spaces and loading dock facilities;
- construction of a four to six storey business school building;
- construction of a new three to five storey student accommodation building providing 188 beds;
- landscaping and public domain works, including new public plaza/forecourt, through site link and retention of Sydney Blue Gum and retention and/or relocation of Crows Ash trees; and
- ancillary works, including utilities servicing and minor works to Darlington Public School.

In addition to the above, it is important to note that at the time of the determination of the Project Application, *South Sydney Local Environmental Plan 1998* applied to the site and development for which approval was sought. This instrument was subsequently repealed following gazettal of *Sydney Local Environmental Plan 2012* which currently governs zoning and land use on the site. The provisions of this new instrument have been considered in detail under Part D of this Report.

### 1.3 Abercrombie Precinct Re-development – Project Particulars

The particulars of Project Approval MP07\_0158 are detailed as follows:

- site remediation;
- lot consolidation and subdivision into two lots for the business school and student accommodation building;
- demolition of all existing structures, except part demolition only of the Faculty of Business and Economic building and reuse reinterpretation of the Joiners Workshop building facade;
- excavation and bulk earthworks across the site for basement and lower ground levels and services;
- construction of a new car park, comprising two basement levels for 82 car parking spaces and loading dock facilities;
- construction of a four to six storey business school building;
- construction of a new three to five storey student accommodation building providing 188 beds;
- landscaping and public domain works, including new public plaza/forecourt, through site link and retention of Sydney Blue Gum and retention and/or relocation of Crows Ash trees; and
- ancillary works, including utilities servicing and minor works to Darlington Public School.

#### **1.4 Consultation**

Prior to lodgement of this 75W application, consultation was carried out with the University of Sydney to determine parameters in which the construction activities may be carried out to ensure there are no adverse impacts on their operations. It is considered that sensitive receptors including Darlington Public school will not be affected by the internal construction activities as it will not be operational during this time.

As stipulated in the Acoustic Report (**Appendix 2**), further consultation will be carried out with surrounding property owners as required regarding internal night works.



## **PART B SITE ANALYSIS**

### **2.1 Site Location and Description**

The subject site is rectangular in shape and has an area of approximately 1.92 hectares and is located within the southern end of the University of Sydney's Darlington Campus, which has a total area of approximately 16.7 hectares. Frontages of approximately 169m to Abercrombie Street and 110m to Codrington Street are achieved with mature vegetation interspersed. A total of 79 individual allotments make up the project site in addition to Rose Street and Boundary Lane. All 79 Allotments are owned by the University of Sydney.

The site is located in a less developed area of the Darlington Campus and comprises a number of buildings which vary in scale, architectural style and physical condition. Rose and Boundary Street provide access to the existing buildings on the site along with vehicular access. Existing improvements located on the site include:

- Faculty of Economics and Business building;
- Existing University maintenance facilities and services;
- Boundary Lane Childcare Centre; and
- the children's deaf and hearing-impaired facility – the Shepherd Centre

For the purpose of this 75W modification, the existing residential college (Mandelbaum House) is excluded from the development site (refer to the site location and existing development as illustrated in **Figure 1**).



**Figure 1: Site Location and Existing Development** – Department of Lands, 2013

### **2.2 Ownership**

The land is owned by the University of Sydney. Owners consent is annexed at **Appendix 2** which provides authority to lodge the application.

### **2.3 Site Context**

The subject site is located within an established urban area within the Sydney City LGA at the southern end of the University of Sydney's Darlington Campus (**Figure 2**). The locality is characterised by predominately low-medium scale residential development, along with education buildings which form part of the University of Sydney, interspersed with local retail

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shops and areas of public open space. To date, the University of Sydney maintains a strong presence within the locality by virtue of the scale of land ownership and education buildings which are easily identifiable from various points of the public domain.

The location of the site is such that it benefits from being in close proximity transport linkages and land uses which make it easily accessible and from a number of sub-regions within metropolitan Sydney, these include:

- Central Station - 2.7kms north-east
- Sydney Central Business - 3.9kms north-east
- Parramatta Road – 2.1kms north
- Redfern Station - 850m east of the subject site

The immediate surrounds of the site are made up of a variety of land uses, some which bear a relationship to the operation of the University of Sydney, including:

- North - Darlington Lane terraces which are predominately student accommodation housing
- South - mixed use development and two storey residential development
- East – University buildings including the campus services and infrastructure building and the university sports aquatic centre
- West - Darlington public school

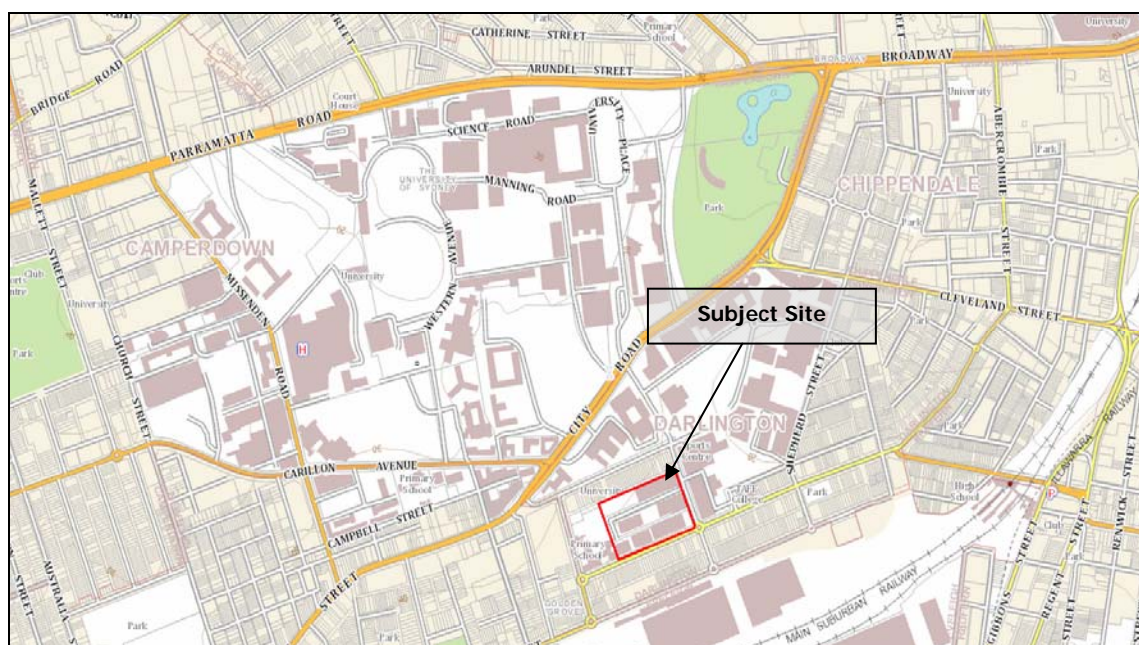


Figure 2: Site Context – (Land and Property Information, 2013)





**Figure 3: Site Context** – (Land and Property Information, 2013)

## PART C PROPOSED MODIFICATIONS

### 3.1 Proposed Development

The subject application seeks to undertake modifications to Project Approval MP07\_0158. The proposed changes pertain to condition D11 of the Project Approval MP07\_0158 to be amended as shown in red and bold below:

#### **Hours of Work**

*D11. The hours of construction, including delivery of materials to and from the subject site, shall be restricted as follows:*

- a) Between 7:00am to 6:00pm, Monday's to Friday's inclusive*
- b) Between 6:00pm to 12:00am Monday's to Friday's – internal building works only***
- c) Between 8:00am to 3:00pm, Saturday's*
- d) Between 3:00pm to 10:00pm Saturday's – internal building works only***
- e) No work on Sunday's and public holidays*
- f) Works may be undertaken outside these hours where:*
  - i. the delivery of materials is required outside these hours by Police or other authorities.*
  - ii. is required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm.*
  - iii. Variation is approved in advance in writing by the Director General or his nominee.*

Construction activities taking place outside standard construction hours will be restricted to non-structural works. The following trades are expected to be employed outside of standard construction hours:

- Floor lining and carpet laying
- Plastering
- Tiling
- Joinery installation
- Services fit out including electrical and communications wiring
- Painting

The above activities are not expected to be excessively noisy as the tools used are mostly small and battery operated. Furthermore, it is proposed that all construction work taking place outside of standard construction hours will take place within the building envelope and work will not commence until the glass facade has been installed to the floor under consideration.

### 3.2 Project Need & Justification

The objectives of the proposed modification are to ensure that construction of the approved development can be carried out in a time and cost effective manner, to deliver the built form associated with this project on or by 31 January 2015 and meet project deadlines in conjunction with minimising interaction with the community.

### 3.3 Supporting Documentation

The following supporting documentation includes

- Acoustic Report prepared by Marshall Day Acoustics dated 27 March 2014

## **PART D LEGISLATIVE AND POLICY FRAMEWORK**

### **4.1 Legislation**

The relevant legislation for consideration required is addressed as follows:

#### **4.1.1 Part 3A Transitional Regulation**

The project was declared to be a project to which Part 3A of the *Environmental Planning and Assessment Act 1979* (the Act) applies on 1 December 2008. Following the repeal of Part 3A of the Act on 1 October 2011, the project is saved by transitional provisions provided in Schedule 6A of the Act as follows:

##### ***Transitional arrangements—repeal of Part 3A***

- 1) *The following are, subject to this Schedule, transitional Part 3A projects:*
- (a) an approved project (whether approved before or after the repeal of Part 3A),*
  - (b) a project that is the subject of an approved concept plan (whether approved before or after the repeal of Part 3A),*
  - (c) a project for which environmental assessment requirements for approval to carry out the project, or for approval of a concept plan for the project, were last notified or adopted within 2 years before the relevant Part 3A repeal date (unless the environmental assessment is not duly submitted on or before 30 November 2012 or on or before such later day as the Director-General may allow by notice in writing to the proponent),*
  - (d) a project for which an environmental assessment (whether for approval to carry out the project or for approval of a concept plan for the project) was duly submitted before the relevant Part 3A repeal date.*

As the Environmental Assessment was lodged prior to 1 October 2011, and as the project is subject of an "approved project", the project remains one to which Part 3A of the Act applies.

#### **4.1.2 Section 75W of the Act**

Pursuant to the version of the Act in force prior to 30 September 2011, Section 75W provides that the proponent may request the Minister to modify the Minister's approval for a project, including the approval of a Concept Plan. Such modifications may include:

- (a) revoking or varying a condition of the approval or imposing an additional condition of the approval, and*
- (b) changing the terms of any determination made by the Minister under Division 3 in connection with the approval.*

This section does not limit the circumstances in which the Minister may modify a determination made by the Minister under Division 3 in connection with an approved project. The requirements of s75W of the Environmental Planning & Assessment Act 1979 (EP&A Act) have been considered by the Courts on several occasions. The Land and Environment Court has observed that the language of s75W is not constrained by the qualification (contained in s96 of the EP&A Act) that the development as modified be "substantially the same" as the development already approved. (*Williams v Minister for Planning (2009) 164 LGERA 204*). In other words, the power under s75W to modify is broader than the test under s96.

We submit that the proposed modifications are appropriate for assessment under S75W of the Act because:

- The modifications result in no change to the GFA/FSR of the Project Approval.

- The modifications do not result in a change to the landscaping or open space of the site.
- There is no change to the building height.
- The resultant impact on surrounding properties will maintain the existing level of amenity afforded

#### **4.1.3 Sydney Local Environmental Plan 2012**

At the time of determination of Project Application MP07\_0158, *South Sydney Local Environmental Plan 1998* applied to the land and the subject development, thus the proposal was considered under this instrument. Draft Sydney Local Environmental 2011 was also a statutory consideration for the proposal - this plan has subsequently been gazetted and is now known as *Sydney Local Environmental Plan 2012* (SLEP).

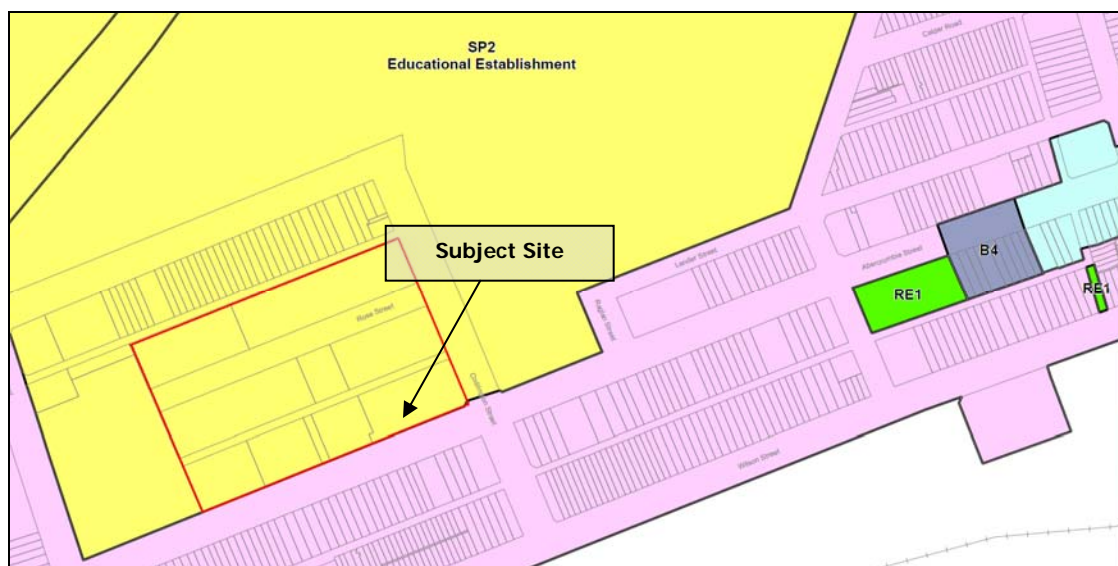
The provisions SLEP 2012 apply to the subject site and the proposed development as discussed below.

#### ***Zoning and Permissibility***

The site is "SP2 Infrastructure" under SLEP 2012. The objectives of the zone are:

##### ***Objectives of zone***

- *To provide for special land uses that are not provided for in other zones.*
- *To provide for sites with special natural characteristics that are not provided for in other zones.*
- *To facilitate development that is in keeping with the special characteristics of the site or its existing or intended special use, and that minimises any adverse impacts on surrounding land.*



**Figure 4:** Zoning Map – SLEP 2012 (Sydney City Council, 2012)

The proposal entails modifications to the approved hours with no change to the approved land use.

The proposal as modified is considered to be consistent with the objectives of the zone in that it will allow construction activities that will result in minimal impact on the adjoining land uses.



## **4.2 Strategic Planning Context**

The Project Approval as modified has been considered having regard to the plans and strategies shown below. It is considered the modifications sought contribute to the attainment of the objectives of these plans and policies as the provision of a modern day education facility is achieved by virtue of the development outcomes.

- *Draft Metropolitan Strategy for Sydney*
- *Draft Central sub-regional Strategy*
- *NSW 2021*
- *The University of Sydney 2011-2015 Strategic Plan*
- *Draft University Master Plan*

## **4.3 Draft Environmental Planning Instruments**

No draft environmental planning instruments currently apply to the proposal.

## **4.4 Development Contributions**

Development contributions shall levied based on negotiations with the relevant authorities as per the Project Approval. The change in construction hours will have no impact on contributions applicable.

## PART E ENVIRONMENTAL ASSESSMENT

### 5.1 Relevant EPI's and Guidelines

All relevant EPIs and guidelines have been considered as detailed in Part F of this report. It is concluded from the assessment carried out that the modified Project Approval is consistent with the provisions of applicable EPIs and guidelines, in particular *Sydney Local Environmental Plan 2012* which now applies to the land.

Consistency with the relevant EPIs demonstrates the acceptable nature of the development and the merit of the design. As previously discussed, there is no further increase to the approved building height proposed, nor does the proposal seek to increase the GFA of the development.

On balance, the strategic intentions of the EPIs and guidelines which apply to the site are achieved while providing a modern day education facility which enhances the education experience of students of the University of Sydney.

### 5.2 Built Form/Design and Visual Impacts

Not applicable.

### 5.3 Environmental and Residential Amenity

A detailed acoustic report has been prepared by Marshall Day (**Appendix 2**) to support the additional hours of construction. The extent of the construction site is shown with respect to adjoining receivers in **Figure 1** below:



Figure 5: Receiving environments and subject site (Marshall Day, 2014)



Construction noise criteria for this development has been derived based on the requirements of the *Interim Construction Noise Guideline* (CNG). Background noise levels identified in the Noise Impact Assessment report prepared by MDA (refer *Rp001 R06 201009de Noise Impact Assessment*) have been used to derive appropriate criteria applicable to construction activities proposed outside of approved construction hours.

The construction Noise and vibration criteria are shown below in **tables 1** and **2** respectively.

**Table 1:** Construction Noise Criteria

Receiver	Type	RBL, dB L <sub>A90</sub> <sup>1</sup>	Management level, dB L <sub>Aeq, 15mins</sub>
A	Residential	43	48
E	Residential	43	48

**Table 2:** Vibration Criteria

Line	Type of structure	Guideline values for velocity, in mm/s			
		Vibration at the foundation at a frequency of			Vibration at horizontal plane of higher floor at all frequencies
		1-10Hz	10-50Hz	50-100Hz*	
1	Buildings used for commercial purposes, industrial buildings, and buildings of similar design	20	20 to 40	40 to 50	40
2	Dwellings and buildings of similar design and/or occupancy	5	5 to 15	15 to 20	15
3	Structures that, because of their particular sensitivity to vibration, cannot be classified under lines 1 and 2 and area of great intrinsic values (e.g. listed buildings under preservation order)	3	3 to 8	8 to 10	8

\* At frequencies above 100 Hz, the values given in this column may be used as minimum values.

As discussed previously, the construction activities are not expected to be excessively noisy and the tools used are mostly small and battery operated. All construction work taking place outside of standard construction hours will take place within the building envelope and work will not commence until the glass facade has been installed to the floor under consideration.

Noise levels from proposed construction activities during the extended construction hours have been calculated at the nearest noise sensitive receivers. The calculations make the following worst-case assumptions:

- As a worst-case scenario each activity will take place simultaneously on up to four levels of the building once the facade has been made watertight
- A minimum 20dB attenuation via the facade of the constructed building once watertight (glazing and roof complete).

Based on the noise levels calculated in the submitted report, it is evident that some of the construction activities calculated outside of the standard hours are expected to exceed construction management noise levels. **Table 2** below provides record of the various construction activities in respect of the management noise level.

**Table 3: Noise Results**

Receiver	Management level, dB L <sub>Aeq</sub> , 15min	Assessment scenario	Plastering	Services Fitout	Tiling	Ceiling Fixing	Joinery Installation	Painting
A	48	Worst case	52	52	40	51	51	53
		Average	48	48	36	48	48	49
E	48	Worst case	60	60	46	60	60	60
		Average	51	52	39	51	51	52

However, subject to suitable on-site management, the overall impact will be acceptable. Accordingly, construction equipment associated with noise activities should be chosen carefully to ensure the impact on the receiving environment is minimised. Activities such as tile cuttings should not take place during extended hours.

The following controls are proposed to be implemented to mitigate noise impacts associated with extended hours of construction.

- Out of hours construction will only commence on each level of the building once the facade has been made watertight. This in itself will prove to be the most effective mitigation strategy as it endeavours to contain construction noise within the building
- Noisier construction activities taking place within the building will be scheduled to take place away from receivers during the later hours of the evening as far as practicable
- Tiling activity will be restricted to the installation of tiles and tile cutting will not take place during the extended construction hours
- Deliveries to the site will not occur outside of standard construction hours
- Scaffolding erection associated with painting activities will not take place outside of standard construction hours
- Workers working within the building will be encouraged to keep voice levels to a minimum
- All sub-contractors will be encouraged to car pool or use public transport
- Parking will be made available for all staff in the underground car park (once completed) to minimise impact on the surrounding streets and limit noise when staff leave the site at night
- In addition to implementing the complaint-handling procedure detailed in the construction noise management plan, if any tools/equipment related to out of hours construction work are found to give rise to complaints from affected receivers, then these activities will be rescheduled to only occur during the standard construction hours.

It is noted that no vibration activities are proposed during extended hours of construction.

Based on the above measures and findings within the report, the proposed hours of operation will not result in unacceptable impacts on the surrounding receiving environment. Compliance with the conditions of approval will be achieved to ensure the development and surrounding environment can co-exist.

#### **5.4 Heritage**

Not applicable to the subject modification.

## **5.5 Transport and Accessibility**

Transport and access will remain unaltered. Parking will be made available for all staff in the underground car park (once completed) to minimise impact on the surrounding streets and limit noise when staff leave the site at night.

## **5.6 Safety/Public Domain**

Implications in terms of safety and the public domain are not considered to change under the subject 75W. For the purpose of this report, the assessment provided as part of the EA Report for the Project Application are maintained with as the site layout will be substantially the same as that approved.

## **5.7 Social Impacts**

The modifications sought under this application are considered to remain unchanged from the Project Approval.

## **5.8 Ecologically Sustainable Development (ESD)**

The modification as submitted does not result in any changes to the ESD commitments previously provided.

## **5.9 Stormwater/Flooding**

Stormwater and flooding issues are to remain unchanged from the Project Approval.

## **5.10 Public Services/ Infrastructure and Utilities**

All essential services and utilities are available to the site and are capable of accommodating the development.

## **5.11 Staging**

Staging is to remain as per Project Approval MP07\_0158. This is considered appropriate to deal with the site constraints and manage the construction process to ensure there is no unacceptable impact on the surrounding environment.

## **5.12 Potential On Site Contamination**

On-site contamination was previously dealt with under Project Approval MP07\_0158. Due to the extent of changes proposed, further consideration in regard to contamination is not warranted under this application.

## **5.13 Dedication**

Dedication of land was dealt with under the Project Application, as such no change is proposed under this 75W.

## **5.14 Consultation**

Prior to lodgement of this application, John Holland Group consulted with the University of Sydney regarding the extended hours of construction. On-going consultation will occur with surrounding properties to ensure open communication and community expectations are met.

## **PART F CONCLUSION**

The proposed Abercrombie Precinct redevelopment is considered to make a positive contribution to ensuring the provision of modern education facilities and services on a local, regional and national level while enhancing the existing precinct with the Sydney City LGA.

All modifications sought under this application ensure that the development can be accommodated within the site, resulting in no adverse impacts on neighboring residential and commercial development. As such there will be no change to the approved design under this application, rather the extended hours of operation seek to ensure that the project can be completed on-time and meet the project objectives.

The proposal meets the aims and objectives of all relevant policies and is consistent with the locality and will have no adverse environmental impact. This will be achieved through on-going management and mitigation measures associated with construction activities on the site.

Based on the above, it is recommended that the modification application be approved.

**Appendix 1**  
Project Approval 07\_0158

**Appendix 2**  
Acoustic Report

**Appendix 3**  
Owners Consent