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10 November 2021

Ms Kiersten Fishburn  
Secretary  
NSW Department of Planning, Industry and Environment  
12 Darcy Street  
Parramatta NSW 2150

**Attention:** Cameron Sargent (Team Leader, Key Sites Assessments)

Dear Cameron,

## SSD-10454 – SECTION 4.55(1A) MODIFICATION TO CONDITION E17

### 1. Overview

On behalf of Mulpha (the Applicant) this letter seeks to request a modification to the abovementioned State Significant Development (SSD) consent under Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* ('the Act') to allow sufficient time to have the final Green Travel Plan (GTP) approved by TfNSW.

On 18 December 2020, the NSW Department of Planning, Industry and Environment (DPIE) granted SSD consent for internal and external alterations to The Intercontinental Hotel at 115-119 Macquarie Street, Sydney.

Regarding the GTP, the consent (Condition E17) requires it to be approved by the Coordinator General, Transport Coordination (within Transport for NSW) "*a minimum of six months prior to the issue of an Occupation Certificate*".

This Section 4.55(1A) modification seeks to amend the SSD-10454 consent to allow the Green Travel Plan to be submitted and approved by TfNSW prior to an Occupation Certificate (not six months prior). Correspondence with TfNSW (appended) confirms they are agreeable to this timing arrangement.

This letter provides:

- A description of the approved development.
- A description of the proposed modifications.
- Consideration of the proposed changes against the provisions of Section 4.55(1A) of the Act; and
- An assessment of the proposed modification against the matters for consideration pursuant to Section 4.15 of the Act.

The assessment of the application outlined in this report clearly demonstrates that the proposed modifications will result in substantially the same development as that which was originally approved and satisfies the requirements of Section 4.55(1A) of the Act.

## 2. Background

On 18 December 2020, Stage 2 'detailed' SSD consent (SSD-10454) was granted by DPIE for alterations and additions, including rooftop expansion and internal refurbishment at The Intercontinental Hotel, Sydney.

Condition E17 of the consent requires the Green Travel Plan (GTP) to be approved by the Coordinator General, Transport Coordination (within Transport for NSW) *"a minimum of six months prior to the issue of an Occupation Certificate"*.

Due to the COVID-19 pandemic and the Intercontinental Hotel being used for quarantine purposes, together with the condensed construction program (due for completion in April 2022), the Applicant requires additional time to achieve approval of the GTP. It is proposed that the GTP is finalised prior to OC for the works/development.

Correspondence, which is appended to this letter, confirms this approach is acceptable to TfNSW.

## 3. Proposed Modification

It is proposed to modify Condition E17 as follows:

*"E17. ~~A minimum of six months p~~ Prior to the issue of an Occupation Certificate, a Green Travel Plan must be approved by the Coordinator General, Transport Coordination, within TfNSW. The Green Travel Plan must be prepared in consultation with the Sydney Coordination Office within TfNSW and shall include, but not limited to... [condition continues]"*

## 4. Section 4.55(1A) Assessment

### 4.1 Potential Environmental Impact

The proposed modification is not seeking any changes to the approved built form and only relates to the approval timing of the GTP. Therefore, the proposed modification will not have environmental impacts and as such, the application can be considered under the provisions of Section 4.55(1A)(a) of the Act.

### 4.2 Extent of Modification

The proposed amendment simply provides flexibility for the timing of the GTP approval (by TfNSW) and will not result in any changes to the physical appearance of the approved development or the way in which the site will operate on an ongoing basis. The modified development will remain *'substantially the same'* as the approved development and as such, the modification can be approved under the provisions of Section 4.55(1A)(b) of the Act.

### 4.3 Public Notification and Submissions

As the proposed works are minor and submitted under Section 4.55(1A) of the Act, it is anticipated the application will not require public exhibition. In the event any exhibition is carried out, per Section 4.55(1A)(c) and (d), any submissions received will need to be considered by DPIE in the assessment of the application.

## **5. Section 4.15 Consideration**

The matters referred to in Section 4.15 of the Act also need to be considered in the assessment of the proposed modification. Each of the matters relevant to the proposal is assessed below:

### **(a)(i) any environmental planning instrument**

The proposed modification has been assessed in accordance with the relevant planning controls. The application has been submitted in accordance with the requirements of Section 4.15(1A) of the Act.

The proposed amendment does not impact on compliance of the development with any other provisions of the state, regional and local planning controls.

### **(a)(ii) any proposed instrument that is or has been the subject of public consultation**

None relevant to the proposal.

### **(a)(iii) any development control plan**

The modification will not result in any changes to the existing level of compliance with the Sydney DCP.

### **(a)(iia) any planning agreement or any draft planning agreement**

None relevant to the proposal.

### **(a)(iv) the regulations**

None relevant to the proposal.

### **(a)(v) any coastal zone management plan**

None relevant to the proposal.

### **(b) the likely environmental, social and economic impacts**

The proposed amendment to the timing of the GTP approval will not result in any environmental, social or economic impacts.

### **(c) the suitability of the site**

The proposed modification will not result in any changes that would affect the suitability of the site to accommodate the proposed development.

### **(d) any submissions**

It is acknowledged that any submissions arising from the public notification of the Section 4.55(1A) application will need to be assessed by DPIE.

### **(e) the public interest**

It is considered that the proposed modification does not contravene the public interest.



## 6. Summary and Recommendation

Overall, it is considered that the Section 4.55(1A) application is entirely appropriate and may be approved by DPIE, based on the following:

- The proposed modifications will have no environmental impact and will result in substantially the same development as that approved under the development consent; and
- The proposal will not result in any detrimental on-site or off-site impacts.

Based on the above, it is concluded that the proposed modification may be approved under the provisions of Section 4.55(1A) of the EP&A Act. If you have any questions, please don't hesitate to contact me at (02) 8233 7607 or [egreen@urbis.com.au](mailto:egreen@urbis.com.au).

Yours faithfully,

*Edward Green*

Edward Green  
Senior Consultant

Enclosed:  
Correspondence from TfNSW dated 2 November 2021.