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15456
19 May 2017

Carolyn McNally
Secretary
NSW Department of Planning and Environment
Level 22 320 Pitt Street
SYDNEY 2000

Attention: Natasha Harras (Team Leader, Modification Assessments)

Dear Ms McNally,

**SECTION 96(1A) MODIFICATION APPLICATION - EXTENDED CONSTRUCTION HOURS
3 MARIST PLACE AND 24A O'CONNELL STREET, PARRAMATTA**

We write to you on behalf of the proponent, the NSW Department of Education, seeking an amendment to State Significant Development (SSD) 7372 pursuant to Section 96(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to allow for an extension of construction hours for the approved new primary school at 3 Marist Place and 24A O'Connell Street, Parramatta.

This modification application seeks to amend Condition C1 (Hours of Work) to permit extended construction hours, as follows:

- 7:00am to 10:00pm, Monday - Friday;
- 7:30am to 5:00pm, Saturday; and
- 8:00am to 5:00pm, Sunday.

This application identifies the instrument of approval, describes the proposed modifications and provides a planning assessment of the relevant matters for consideration contained in Section 96(1A) of the EP&A Act. It should be read in conjunction with the original Environmental Impact Statement (EIS) submitted for the development, prepared by JBA and dated June 2016. The application is accompanied by:

- A copy of the Notice of Determination for SSD 7372 (**Attachment A**);
- Acoustic Assessment of Construction Noise and Vibration prepared by Acoustic Studio (**Attachment B**); and
- Noise and Vibration Management Plan prepared by Lipman (**Attachment C**).

1.0 CONSENT PROPOSED TO BE MODIFIED

On 21 February 2017, the Department of Planning and Environment approved SSD 7372 for the adaptive reuse of existing buildings and facilities at the former Kings School for the establishment of a new primary school, including:

- Demolition of various internal building elements and ground floor slabs of Buildings E, F and H;
- Refurbishment of existing buildings, including:
 - Building A to accommodate administration and office space;
 - Building B to accommodate a library and classrooms;
 - Building C to accommodate staff areas, canteen, classrooms and common learning areas; and

- Building D to accommodate classrooms and practical activates spaces;
- Construction of a new school hall and covered outdoor learning area;
- A bus pick-up and drop-off area on Marist Place;
- A student pick up and drop- off area on Marist Place and Market Street;
- Reconfiguration of existing car parking areas off O'Connell Street and Marist Place;
- Site remediation works including removal of underground storage tanks; and
- Removal of trees and new landscaping to accommodate passive and active recreational uses.

The proposal will provide education facilities for 1,000 students and forms a key part of the Government's \$1 Billion Rebuilding NSW School's Fund. It is proposed to complete the works by December 2017 to coincide with the beginning of the 2018 school year.

The application has not been previously modified.

1.1 Approved Hours of Construction

The hours of construction that were approved under Condition C1 of SSD 7372 are 7:00am to 6:00pm Monday – Friday and 7:30am to 3:30pm Saturday, with no work on Sunday or public holidays.

It is acknowledged that the condition contemplates the ability to request work outside of these hours with written permission from the Secretary or her nominee.

2.0 SITE ANALYSIS

The Old Kings School site is located to the north of the Parramatta River, on the northern outskirts of the Parramatta CBD. The site is bounded by O'Connell Street to the west and Marist Place to the east. Further to the west is vacant land as the former Parramatta Stadium and swimming pool have been demolished in anticipation of the new 30,000 seat Western Sydney Stadium. To the north of the site lies the St Patrick's Cathedral site (subject to a DA for mixed use development). To the south, the site adjoins the Parramatta River. The site is located approximately 920m north-west of Parramatta Station. The site's location is shown at **Figure 1**.

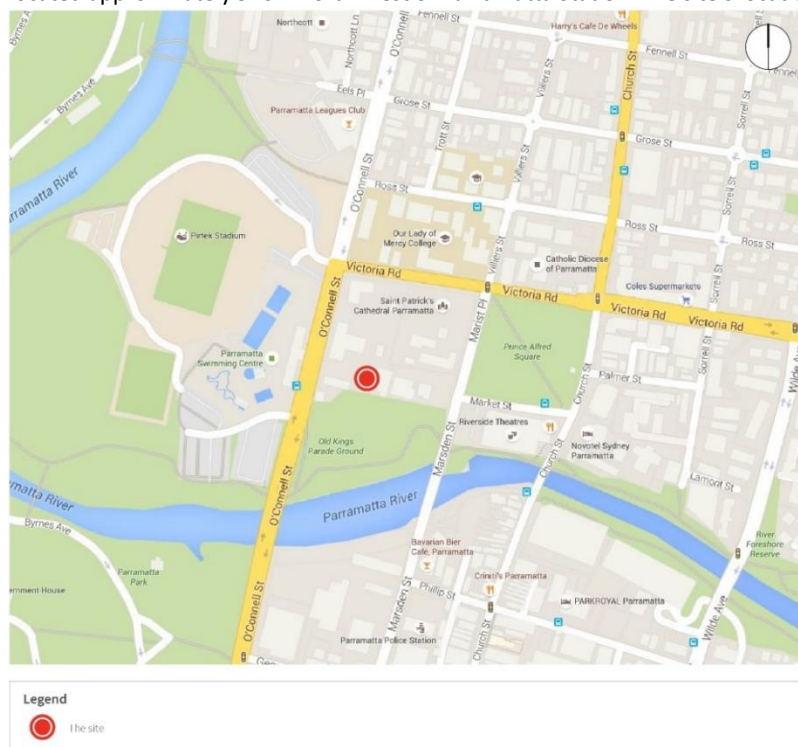


Figure 1 – Context Plan
Source: Google Maps

The development site comprises of two (2) lots with a combined area of 2.47 hectares. The land is owned by the NSW Department of Education. The land is legally described as Lot 1 DP 1112822 (3 Marist Place) and Lot 6 DP 1182647 (24A O'Connell Street). An aerial photograph of the site is provided at **Figure 2**.



Figure 2 – Aerial Photo
Source: Nearmap

3.0 PROPOSED MODIFICATIONS TO CONSENT

3.1 Description of Proposal

This modification seeks approval for extended construction hours, as follows:

- 7:00am to 10:00pm, Monday – Friday (current approval to 6pm);
- 7:30am to 5:00pm, Saturday (current approval to 3.30pm);
- 8:00am to 5:00pm, Sunday (currently a non-working day); and
- No work on public holidays.

Works during the extended hours will be restricted to limit any adverse noise impacts on surrounding receivers, whilst still enabling the construction program to be expedited. The proposed activities to be carried out during the extended hours are outlined in **Table 1**.

The proposal does not seek any variation to the hours for deliveries or vehicle movements on the site which will occur only during the currently approved construction hours. Further, no change is proposed to Condition C4 with respect to the approved hours for rock breaking, rock hammering, sheet piling and pile driving. The works carried out during the extended hours will predominantly be finishes trades with hand or battery powered tools, and so are unlikely to generate excessive noise. Further, these works will generally be within the building envelope.

Table 1 – Activities to be carried out during extended hours

Day	Hours	Works to be Carried Out
Monday to Friday	6.00pm to 8.00pm	Powered hand tools and battery tools only.

Monday to Friday	8.00pm to 10.00pm	Works during this period will be confined to internal works only.
Saturday	7.30am to 5.00pm	Normal unrestricted construction activities.
Sunday	8.00am to 5.00pm	Normal unrestricted construction activities.

3.2 Need for Additional Construction Hours

The extended construction hours are sought to expedite delivery of the O'Connell Street Primary School to ensure that it is operational by 1 February 2018 for commencement of the 2018 school year. This represents a 6 month reduction in the original construction program.

Due to unforeseen delays with the SSD approval and proposed temporary school (currently subject to consideration by the Minister under 2017SWC020) the completion of the O'Connell Street Primary School needs to be brought forward to enable fulfilment of the Government's \$1 Billion Rebuilding NSW School's Fund.

Extended construction hours, as described in Section 3.1 above, between July 2017 and January 2018 will enable this revised program to be achieved.

3.3 Proposed Modifications to Conditions

The proposed modifications described above necessitate amendments to the consent conditions which are identified below.

Words proposed to be deleted are shown in bold strike through and words to be inserted are shown in bold italics.

Hours of Works

~~C1. The hours of construction, including the delivery of materials to and from the Subject Site, shall be restricted as follows:~~

- ~~a) Between 7am and 6pm, Monday to Fridays inclusive;~~
- ~~b) Between 7:30am and 3:30pm, Saturdays;~~
- ~~c) No work on Sundays and public holidays.~~

~~Works may be undertaken outside these hours where:~~

- ~~i) The delivery of materials is required outside these hours by the Policy or other authorities; or~~
- ~~ii) It is required in an emergency to avoid the loss of life, damage to property and / or to prevent environmental harm; or~~
- ~~iii) Variation is approved in advance in writing of the Secretary or her nominee.~~

C1. Construction works shall be restricted to the following hours and activities:

- a) Between 7am and 6pm, Monday to Fridays inclusive (unrestricted construction activities);**
- b) Between 6.00pm and 8.00pm, Monday to Friday (powered hand tools and battery tools only);**
- c) Between 8.00pm and 10.00pm, Monday to Friday (no noise generating tools or equipment to be used. Works during this period will be confined to internal works only);**
- d) Between 7.00am and 5.00pm, Saturday (unrestricted construction activities);**
- e) Between 8.00am and 5.00pm, Sunday (unrestricted construction activities); and**
- f) No work on public holidays.**

Works may be undertaken outside these hours where:

- i) The delivery of materials is required outside these hours by the Policy or other authorities; or
- ii) It is required in an emergency to avoid the loss of life, damage to property and / or to prevent environmental harm; or
- iii) Variation is approved in advance in writing of the Secretary or her nominee.

Notwithstanding the above, delivery of materials to and from the Subject Site shall be restricted as follows:

- a) Between 7am and 6pm, Monday to Fridays inclusive;**
- b) Between 7:30am and 3:30pm, Saturdays; and**
- c) No deliveries on Sundays and public holidays.**

4.0 SUBSTANTIALLY THE SAME DEVELOPMENT

Section 96(1A) of the EP&A Act states that a consent authority may modify a development consent if “it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all)”.

The proposed modifications to the construction hours will not alter the nature of the approved development. The development, as proposed to be modified, is substantially the same development as that originally approved in that it will have no impact on the nature or scope of works approved under SSD 7372.

Moreover, the proposed amendments to hours of work seek to limit the works to non-intrusive works / activities during the most sensitive times, and together with the proposed management measures, will ensure that there is no more than a minimal environmental impact to surrounding developments or land uses. Further discussion in regards to potential environmental impacts is provided below at Section 5.

5.0 ENVIRONMENTAL ASSESSMENT

Section 96(1A) of the EP&A Act states that a consent authority may modify a development consent if “*it is satisfied that the proposed modification is of minimal environmental impact*”. Under Section 96(4) the consent authority must also take into consideration the relevant matters to the application referred to in Section 79C(1) of the EP&A Act.

The following assessment considers the relevant matters under Section 79C(1) and demonstrates that the development, as proposed to be modified, will be of minimal environmental impact.

5.1 Section 79C(1)(a) Planning Instruments

The EIS submitted with the original DA addressed the proposed development’s level of compliance against relevant planning instruments, including:

- *Threatened Species Conservation Act 1995*;
- *Water Management Act 2000*;
- *Roads Act 1993*;
- *Environmental Planning and Assessment Act 1979 (EP&A Act)*;
- *Environmental Planning and Assessment Regulation 2000 (EP&A Regulation)*;
- *State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP)*;
- *State Environmental Planning Policy (Infrastructure) 2007 (SEPP Infrastructure)*;
- *State Environmental Planning Policy 55 – Remediation of Land (SEPP 55)*;
- *State Environmental Planning Policy 33 – Hazardous and Offensive Development (SEPP 33)*;
- *Parramatta Local Environmental Plan 2011 (Parramatta LEP 2011)*;
- NSW State Priorities;
- A Plan for Growing Sydney;
- NSW Long Term Transport Masterplan 2012;
- Sydney’s Cycling Future 2013;
- Sydney’s Walking Future 2013;
- Healthy Urban Development Checklist, NSW Health; and
- Parramatta Development Control Plan 20113 (4.3.3.7 City Centre Special Areas C) Park Edge).

The proposed modifications (relating to extending the hours of work) will not affect the consistency of the proposed development with the relevant planning instruments.

5.2 Section 79C(1)(b) Impact on the Environment

The EIS submitted with the original DA addressed the likely impacts of the development, including:

- Consistency with Relevant EPIs, Policies and Guidelines
- Built Form and Urban Design
- Environmental Amenity
- Visual Impacts
- Transport and Accessibility
- Heritage
- Tree Removal
- Biodiversity

- Soils, Geotechnical and Groundwater
- Drainage and Flooding
- Construction Impacts
- Accessibility
- Structural Adequacy
- Crime Prevention Through Environmental Design
- Ecologically Sustainable Development
- Development Contributions
- Site Suitability
- Public Interest

The planning assessment of the proposed modified development remains generally unchanged with respect to the above matters. The following matters however warrant further assessment.

5.3 Acoustic Impact Assessment

An Acoustic Assessment has been prepared by Acoustic Studio and is included at **Attachment B**. The Assessment considers potential noise impacts on sensitive receivers that may arise as a result of the proposed modifications. The report reviews the relevant noise criteria and background noise levels, establishes the nearest sensitive receivers, undertakes an impact assessment of the proposed extended hours of construction and makes recommendations around the management of noise emissions.

Noise Monitoring

Acoustic Studio undertook attended and unattended noise monitoring within and around the site during November 2015. The results of the noise monitoring are outlined at Section 3 of the Acoustic Assessment. The monitoring found that both ambient and background noise levels around the site are dominated by traffic noise.

Relevant Acoustic Controls

Acoustic Studio has considered the following legislation, codes and standards when assessing the proposed extended construction hours:

- NSW Department of Environment and Climate Change "Interim Construction Noise Guideline" 2009.
- NSW Department of Environment and Conservation (DEC) "Assessing Vibration: A Technical Guideline" 2006.
- Australian Standard "AS 2436: Guide to Noise Control on Construction, Maintenance & Demolition Sites" 1981.
- Australian Standard "AS 1055: Acoustics – Description and Measurement of Environment Noise" 1997.
- Australian Standard "AS 2670.2: Evaluation of human exposure to whole-body vibration – Part 2: Continuous and shock-induced vibration in buildings (1 to 80 Hz)" 1990.
- British Standards Institution "BS 6472 – Evaluation of human exposure to vibration in buildings (1 Hz to 80 Hz)" 1992.
- German Institution for Standardisation "DIN 4150.3: Structural vibration – Effects of vibration on structures" 1999.
- Protection of the Environment Operations Act 1997.

Acoustic Impact Assessment

Modelling and sample calculations were conducted by Acoustic Studio to assess the potential impacts of the extended hours on nearby receivers. The sound power levels of the various construction activities were considered in this calculation.

A table of the predicted construction noise levels, categorised by activity, is included in the Acoustic Assessment (**Attachment B**). The location of nearby sensitive receivers is also outlined in Acoustic Studio's report. The location of the nearest sensitive receivers is shown in **Figure 3** below.

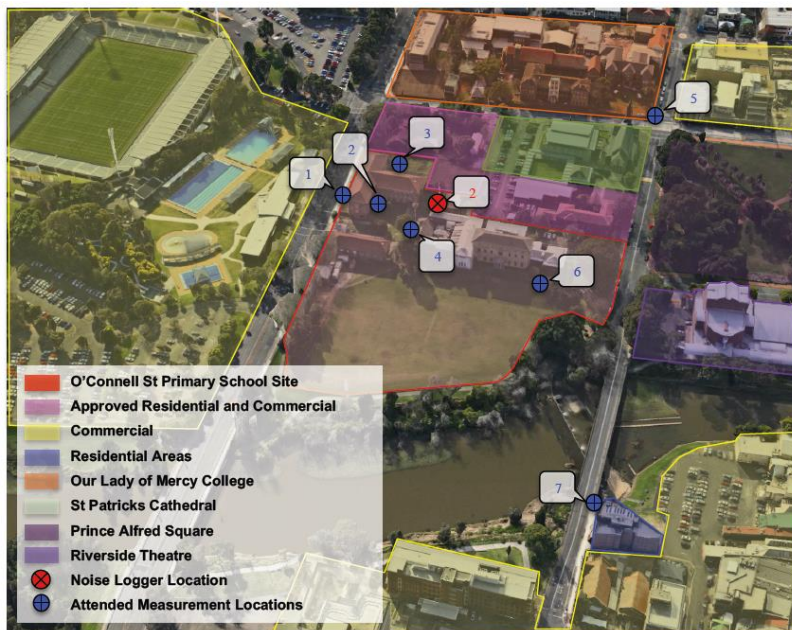


Figure 3 – Proposed O'Connell Street Primary School in relation to noise-sensitive receivers
Source: Acoustic Studio

The noise assessment found that it is likely that the unrestricted construction activities will, at times, exceed the stated criteria at the nearest and potentially worst affected receivers. Assuming that the activities are found to exceed the noise criteria, then the additional noise control measures outlined below and at Section 5.4 of the Acoustic Assessment will be considered and implemented wherever reasonable and feasible.

- Plant and equipment
 - Use quieter methods;
 - Use quieter equipment;
 - Operate plant in a quiet and effective manner;
 - Where appropriate, limit the operating noise of equipment;
 - Maintain equipment regularly; and
 - Where appropriate, obtain acoustic test certificates for equipment.
- On site noise management
 - Strategically locate equipment and plant;
 - Avoid the use of reversing alarms or provide for alternative systems;
 - Maximise shielding in the form of existing structures or temporary barriers; and
 - Schedule the construction of barriers and structures so they can be used as early as possible.
- Consultation, notification and complaints handling
 - Provide information to neighbours before and during construction;
 - Maintain good communication between the community and Project staff;
 - Have a documented complaints process and keep register of any complaints;
 - Give complaints a fair hearing and provide for a quick response; and
 - Implement all feasible and reasonable measures to address the source of complaint.
- Work scheduling
 - Schedule activities to minimise noise impacts.

If, during construction, an item of equipment exceeds either the noise criteria at any location or the equipment noise level limits, the following noise controls measures, together with the measures outlined above, shall be considered to minimise the noise impacts on the neighbourhood.

- Schedule noisy activities to occur outside of the most sensitive times of the day for each nominated receiver;
- Consider implementing equipment-specific screening or other noise control measures recommended in Appendix E of AS2436;
- Limit the number of trucks on site at the commencement of site activities to the minimum required by the loading facilities on site;
- When loading trucks, adopt best practice noise management strategies to avoid materials being dropped from height into dump trucks;
- Avoid unnecessary idling of trucks and equipment; and
- Ensure that any miscellaneous equipment (extraction fans, hand tools, etc.) not specifically identified in this plan incorporates silencing / shielding equipment as required to meet the noise criteria.

Implementing all reasonable and feasible mitigation measures for all internal and underground works will ensure that any adverse noise impacts to surrounding residential, commercial and recreational receivers are minimised when noise goals cannot be met due to safety or space constraints.

In addition to the above, Acoustic Studio recommends that environmental noise monitoring be implemented at the boundary of the construction site at the closest receiver (St Patricks Cathedral). The Contractor should prepare a noise monitoring report each month of the out of hours works for review by the Project Manager. The report should summarise and interpret the results of the noise monitoring carried out during the past month.

The Riverside Theatre

Particular consideration has been given to potential impacts on the Riverside Theatres in response to concerns raised regarding the extended hours, particularly the proposed works on Saturdays and Sundays.

The Riverside Theatre has identified sensitive time periods during weekend matinee performances between the hours of 11am and 2pm. Weeknights after 7:30pm are also identified as sensitive time periods – but this coincides with proposed low noise construction works.

In addition to the standard consultation and notification measures described above and in Section 5.4 of the Acoustic Assessment, it is recommended that a specific communications protocol be established with the Riverside Theatre as a means of identifying upcoming sensitive events / time periods (e.g. weekend matinee performances). The Contractor can then plan out of hours works in coordination with the Riverside Theatre and, where possible, schedule activities that are predicted to exceed the relevant criteria for hours that do not coincide with sensitive events / time periods.

It is noted that, while the worst case scenario impact associated with the 'deliveries' activity is shown to exceed the relevant criteria, noise emissions from construction trucks are likely to be consistent with the existing noise environment characterised by regular bus and general traffic noise. Therefore, 'deliveries' activities are unlikely to result in additional / increased noise impacts to surrounding receivers, including the Riverside Theatre. Furthermore, it is not intended to undertake any deliveries during the extended construction hours.

Vibration Impact Assessment

Groundborne noise and vibration impacts associated with the proposed extended construction activities will be consistent with the previously assessed works. Vibration and groundborne noise impacts are likely to have been highest during the demolition and excavation works (which have now largely been completed), when equipment such as rock breakers and jackhammers were used.

Therefore, it is anticipated that the proposed out of hours construction works will not result in any adverse impact at surrounding receivers.

5.4 Construction Management

Lipman has prepared a Noise and Vibration Management Plan (NVMP) which builds on Acoustic Studio's Acoustic Assessment. The NVMP outlines the mitigation measures to be implemented to minimise any adverse acoustic impacts associated with the extended construction hours (refer to **Attachment C**). Measures include, but are not limited to:

- Regular communication between the Church, Riverside Theatre and the Contractor to ensure expected noisy works do not disrupt activities.
- Monitor effectiveness of controls daily through supervision and take corrective actions where issue are identified as per *AS 2436 Guide to Noise Control on Construction, Maintenance and Demolition Sites*.
- Schedule the noisy works listed under Condition C4 to between the hours of 9am - 12pm, 2pm-5pm and 9am to 12pm on Saturdays, as per the current conditions of consent.
- Works carried out Monday to Friday from 6pm – 10:00pm, Saturday 3:30pm – 5:00pm and Sundays 8am – 5pm will be predominantly finishes trades with hand and / or battery powered power tools, kept generally within the building envelope.
- Ensure powered plant and equipment is maintained in good working order preventing undue excess noise from exhaust systems. This plant will not be used Monday to Friday after 6pm, Saturday after 3:30 or Sunday after 12pm.
- Little rock is expected during the remaining earthworks. Where rock is encountered, alternative strategies to remove the rock will be reviewed to reduce the noise/vibration output during this activity.
- Implementing respite periods with low noise / vibration producing construction.
- Switch off equipment when not in use.
- Delivery of materials and plant to be only between the hours of 7am – 6pm Monday to Friday and 7:30am to 3:30pm Saturdays, as per the current conditions of consent.
- If noise complaints occur, they will be registered, investigated and responded to in a timely manner to ensure issues are not repeated.

5.5 Section 79C(1)(c) Suitability of the Site for the Proposed Development

The site remains suitable for the proposed development for the reasons outlined in the EIS lodged with the original SSD. The site's location on the northern edge of the Parramatta CBD means there are fewer sensitive receivers, and a general absence of residential receivers in close proximity to the site. As such, the site is more than able to accommodate the proposed extended construction hours.

More broadly, the proposal will facilitate the adaptive reuse and conservation of significant heritage buildings on the site, and the extended construction hours will expedite the development of the new primary school which comprises high quality new structures which enhance the streetscape and character of the site.

5.6 Section 79C(1)(e) The Public Interest

The proposed modifications will result in an improved outcome in that the extended hours will expedite the construction process and reduce the overall construction program by approximately 6 months. The early completion of the O'Connell Street Public School is critical to the delivery of the Government's \$1 Billion Rebuilding NSW School's Fund and the provision of education facilities in western Sydney.

In summary, the proposed modification:

- Minimises disturbances to nearby receivers, due to the shortened construction program;
- Facilitates the delivery of the O'Connell Street Primary School, a much-needed education facility for western Sydney; and
- Works will be programmed to minimise noisy works required during the extended construction hours period.

6.0 CONCLUSION

In accordance with Section 96(1A) of the EP&A Act, the modified development will be substantially the same as the originally approved development. The proposed modifications are demonstrated to result in a minimal impact. Further, they will reduce the long term impacts on the surrounding receivers, and in our view, are unlikely to unduly impact on the surrounding locality.

In light of the above, we recommend that the Department approve the proposed modifications as described above. We trust that this information is sufficient to enable assessment and approval of the proposed modification request. Should you have any queries about this matter, please do not hesitate to contact 9956 6962 or ktudehope@jbaurban.com.au.

Yours faithfully



Belinda Thomas
Senior Planner



Kate Tudehope
Principal Planner