

## ASSESSMENT REPORT

### O'CONNELL STREET PRIMARY SCHOOL, PARRAMATTA SSD 7372 MOD 1

#### 1. INTRODUCTION

This report is an assessment of an application seeking to modify the State Significant Development (SSD) approval (SSD 7372) for a new public primary school at 3 Marist Place and 24A O'Connell Street, Parramatta (formerly the Kings School) in the Parramatta local government area (LGA).

The application has been lodged by JBA Urban Planning Consultants, on behalf of the NSW Department of Education (the Applicant) pursuant to section 96 (1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act). It seeks approval to extend the hours of construction.

#### 2. SUBJECT SITE

The site is located immediately north of the Parramatta central business district (CBD), on the northern side of the Parramatta River. The site context and site location are shown at **Figure 1**.



**Figure 1:** Site Location (Base source: Nearmap)

The site is bounded by O'Connell Street to the west, Marist Place to the east and the Parramatta River to the south. The site shares its northern boundary with properties fronting Victoria Road.

The surrounding area is characterised by a variety of development types and land uses. Immediately adjoining the northern boundary of the site is the St Patricks Cathedral, associated community and church buildings and a surface car park.

Until recently, the site to the west, on the opposite side of O'Connell Street, was occupied by the Parramatta Swimming Centre and Parramatta Stadium. However, both facilities have now been demolished as part of the redevelopment of that site for the new Western Sydney Stadium.

To the east is the Prince Alfred Square public recreation area and the Riverside Theatre. The Parramatta CBD is located to the south, on the opposite side of the Parramatta River.

The closest residential property to the site is the Marsden Apartments, 101 Marsden Street, which is located approximately 200 metres (m) south-east of the site, on the opposite side of the Parramatta River.

The site's relationship to its surrounding context is shown at **Figure 2**.



**Figure 2:** Aerial view of the site and its surroundings (Base source: Nearmap)

### 3. APPROVAL HISTORY

#### 3.1. Relevant site approval history

On 21 February 2017, the Executive Director, Priority Projects Assessments approved a SSD application (SSD 7372) for the redevelopment of the site for the purpose of a new public primary school (the Original SSD Approval), comprising:

- demolition and refurbishment of existing buildings;
- construction of new school hall and covered outdoor learning area;
- a bus and 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.

In approving the application, the Department imposed the following conditions to address construction noise impacts:

- **B23:** preparation of a Construction Noise and Vibration Management Plan (CNVMP);
- **C1:** limited hours of construction work. Condition C1 is provided below:

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

- a) between 7 am and 6 pm, Mondays to Fridays inclusive;**
- b) between 7:30 am and 3:30 pm, 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 Police 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 by the Secretary or her nominee.**

- **C2 to C6:** construction works must aim to achieve *Interim Construction Noise Guideline* (ICNG) noise management levels (NMLs), addition of 5 dB(A) to management levels for tonal or impulse noise, limitation of significant noise generating activity and prevention of 'offensive noise'.

### **3.2. Relevant neighbouring approval history**

On 24 November 2015, the Sydney West Joint Regional Planning Panel approved a mixed use development on the land located between St Patricks Cathedral and the modification site (DA/799/2014). The approval permits the demolition of existing structures, construction of an office building, chancery building, parish hall, and a six storey 77 unit residential flat building.

Construction has not commenced on the above approval.

## **4. PROPOSED MODIFICATION**

On 19 May 2017, the Applicant lodged an application (SSD 7372 MOD 1) seeking approval to amend condition C1 and extend the construction hours as summarised below:

- extended construction hours include
  - between 7 am to 10 pm Monday to Friday
  - between 7.30 am to 5 pm Saturday
  - between 8am to 5 pm Sunday.
- construction works between the hours of 6 pm and 8 pm, Monday to Friday shall be limited to low-noise power and battery hand-held tools only
- construction works between the hours of 8 pm and 10 pm, Monday to Friday shall be limited to no-noise generating tools or equipment and confined to internal works only
- normal construction activities on Saturday and Sunday
- the delivery of materials to and from the Subject Site shall be maintained as originally approved.

The Applicant is seeking the extended construction hours to:

- reduce the construction time of the proposed O'Connell Street Primary School by six months
- ensure the school is operational for commencement of the 2018 school year (by 1 February 2018).

## 5. STATUTORY CONSIDERATION

### 5.1 Modification of approval

Section 96(1A) of the EP&A Act requires the consent authority to be satisfied the matters listed at **Table 1** are addressed in respect of all applications that seek modification approvals.

**Table 1: Section 96(1A) matters for consideration**

Section 96(1A) matters for consideration	Comment
That the proposed modification is of minimal environmental impact	<b>Section 7</b> of this report provides an assessment of the impacts associated with the proposal. The Department is satisfied that the environmental impacts of the proposed extension of construction hours can be appropriately managed and mitigated so they are of minimal overall impact.
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 modification seeks approval for extension of construction hours and does not result in any physical change to the development or its use. The impacts of the extended construction hours can be appropriately managed and mitigated. On this basis, the proposal would result in development that is substantially the same as the originally approved development.
The application has been notified in accordance with the regulations	The modification application has been notified in accordance with the regulations. Details of the notification are provided in <b>Section 6</b> of this report.
Any submission made concerning the proposed modification has been considered.	The Department received one submission on the proposal from Parramatta City Council. The comments raised in submissions have been considered in <b>Section 7</b> of this report.

### 5.2 Environmental Planning Instruments

The following EPIs are relevant to the application:

- *State and Environmental Planning Policy (State and Regional Development) 2011*
- *State and Environmental Planning Policy No. 55 – Remediation of Land*
- *State and Environmental Planning Policy (Infrastructure) 2007*
- *Parramatta Local Environmental Plan 2011.*

The Department undertook a comprehensive assessment of the redevelopment against the above-mentioned EPIs in its original assessment. The Department has considered the above EPIs and is satisfied that the modification is generally consistent with the EPIs.

### 5.3 Approval Authority

The Minister for Planning is the approval authority for the application. However, the Director, Modification Assessments may determine the application under delegation as:

- the relevant local council has not made an objection; and
- a political disclosure statement has not been made; and
- there are no public submissions in the nature of objections.

## 6. CONSULTATION

### 6.1 Consultation

The application was notified in accordance with the *Environmental Planning & Assessment Regulation 2000*. The modification request was made publicly available on the Department's website and referred to Parramatta City Council (Council). Letters were also sent to adjoining owners.

Council do not object to the extended construction hours. However, Council raised concern with the existing wording of Condition C1 as it could allow the Applicant to deliver or remove materials where it deems it necessary (outside of the hours prescribed in this condition). Council advised noise impact from deliveries is a common reason for complaints.

There were no **public** submissions received on the proposal.

## 7. ASSESSMENT

### Noise from extended construction hours

The key issue for consideration relates to potential noise impacts associated with the extended construction hours on nearby sensitive receivers.

The modification seeks to amend condition C1 to extend the construction hours as shown in **Table 2**.

**Table 1: Amendment to hours of construction**

	Approved Hours of Construction	Proposed Hours of Construction	Difference
<b>Monday to Friday</b>	7 am to 6 pm	7 am to 10 pm	+ 4 hours
<b>Saturday</b>	7:30 am to 3:30 pm	7.30 am to 5 pm	+ 1.5 hours
<b>Sunday</b>	No work	8 am to 5 pm	+ 9 hours
<b>Public Holidays</b>	No work	No work	No change

During the extended construction hours the following restrictions would apply:

- deliveries of materials to/from the site may not take place during the extended construction hours
- evening construction activities on Mondays to Fridays be restricted as follows:
  - 6 pm to 8 pm: only low noise generating works would be carried out
  - 8pm to 10 pm: only internal works would be carried out.

Usual construction activity (other than deliveries) would be permitted on Saturday and Sunday.

In support of the application, the Applicant submitted a Construction Noise and Vibration Report (the Noise Report) to assess the potential noise impacts associated with the extended construction hours on nearby sensitive receivers.

The Noise Report identified the nearest sensitive receivers (shown in **Figure 2**) include:

- the residential 'Marsden' apartments, approximately 200 m south-east of the site (noting other residential land adjoining the site has not yet been constructed and will not be occupied during the construction phase)
- the Riverside Theatre, approximately 70 m east of the site
- St Patricks Cathedral and associated uses, 25 m north east of the site
- Our Lady of Mercy College school, approximately 80 metres north of the site;
- Prince Alfred Square Park, 40 m east of the site
- Commercial properties to 150m north-east of the site.

The Department is satisfied the Noise Report has appropriately identified the key sensitive and nearby receivers potentially impacted by the proposal. Impacts to the affected receivers are considered below.

#### Residential receivers

The relevant guideline governing construction noise is the EPA's ICNG. The applicable noise criteria for noise at residences for works outside standard construction hours is background + 5 dB(A)  $L_{eq}$ .

The Noise Report confirms appropriate monitoring was undertaken to determine the background noise levels applicable to nearby residential receivers. The background noise level was established to be

between 45 and 49dB(A) for the Marsden Apartments. The applicable noise criteria is therefore 50 to 54 dB(A) (Background + 5 dB(A)  $L_{avmax}$ ). The ICNG states when noises are above 75 dB(A) it represents a point where receivers are likely to be 'highly noise affected'.

The Noise Report predicted noise levels at the nearest residential receiver using a worst-case scenario to determine whether the proposal would comply with the applicable ICNG NML criteria of 50-54 dB(A). The results are presented in **Table 3**.

**Table 3: Predicted noise levels at Marsden Apartments (exceedances highlighted red)**

	Monday to Friday 6 pm – 10 pm	Saturday 3:30 pm to 5 pm	Sunday 8 am to 5 pm
NML (dBA)	51	54	50
Predicted Noise (dBA)			
Internal Refurbishment	N/A	28 – 49	28 – 49
Deliveries	N/A	51 – 63	51 – 63
Ground Excavation	N/A	51 – 65	51 – 65
Decontamination	N/A	43 – 48	43 – 48
Construction of hall and covered structures	N/A	37 – 58	37 – 58
Concrete pours	N/A	50 – 59	50 – 59
External walls	N/A	50 – 66	50 – 66
Low noise activities	40 – 49	N/A	N/A
Internal Refurbishment	Inaudible	N/A	N/A

As indicated above, the Noise Report predicts noise from the internal refurbishment and low-noise activities within the extended hours Monday to Friday would be below the ICNG recommended NML.

However, on Saturday afternoons and Sundays some construction activities would exceed ICNG guidelines. Noting the Applicant has advised no deliveries (including concrete deliveries) would take place during these hours, noisy activities would predominantly be related to ground excavation, hall construction and external walls. These activities would potentially exceed the background noise levels by up to 16dBA, but would not result in noise levels exceeding the ICNG 'highly noise affected' threshold of 75dBA.

#### Non-Residential receivers

The Noise Report predicts the proposed extended hours of construction would exceed the applicable NML set out in the INCG for nearby non-residential properties, including the:

- St Patricks Cathedral, due to its proximity to the site, noise would reach up to 84dB(A), being 29 dB(A) above the recommended maximum of 55 dB(A) (external) for places of worship under the ICNG.
- Prince Alfred Square, noise would reach 80dB(A), being 20dB(A) above the recommended maximum of 60dB(A) for parks.
- Riverside Theatre, noise would reach 75db(A), exceeding the noise criteria of 60dB(A).

In each case the noisiest activities are the construction of external walls, followed by ground excavation and construction of the new hall.

In consideration of these impacts, the Applicant has advised:

- it consulted with the Diocese of Parramatta (St Patricks Cathedral), which has confirmed that it has no objection to the proposed extension of construction hours
- the noisiest construction activities are scheduled outside sensitive times (matinee performances) for the Riverside Theatre
- the Noise Report includes additional mitigation measures that may be considered, including:
  - scheduling noisy activities to occur outside of the most sensitive times of the day;
  - implementing equipment-specific screening;
  - limit the number of trucks on site at the commencement of site activities;
  - avoid unnecessary idling of trucks and equipment; and

- ensure that any miscellaneous equipment incorporates silencing / shielding equipment to meet the noise criteria.

The noise report also predicts noise exceedances at a nearby school (Our Lady of Mercy College) and nearby commercial premises. However, the Department notes the school and commercial premises will not be affected by the modification as the extended hours are outside of school classroom times and usual office hours. Overall, the Department considers the modification would result in a positive impact on these premises, as it would reduce the overall length of construction and therefore the number of office days / school days affected by construction noise.

### Department's Consideration

The Department notes the extended construction hours would result in potential noise exceedances to both residential and non-residential sensitive receivers, with the greatest potential exceedances occurring on Sundays. The Department has therefore recommended a suite of measures to ensure construction activities are appropriately managed.

The Department notes the extended construction hours (particularly on Sundays) may impact the St Patricks Cathedral during its Sunday services and the Riverside Theatre during Sunday matinee performances. The Department therefore recommends construction activities be managed on site to ensure compliance with the applicable respective NMLs during Sunday mass and matinee performances. This may require scheduling noisy activities to occur outside of these times and the use of equipment-specific screening as recommended in the Noise Report.

The Department also recommends the requirements of condition C1 be tightened to further protect sensitive noise receivers during the extended construction hours. The Department recommends condition C1 be amended to ensure the:

- use of powered and battery hand-held tools, between 6 pm – 8 pm Monday to Friday, exclude the loudest tools (angle grinders, hammer drills, jackhammers, circular saws and demo saws)
- carrying out of internal works, between 8 pm – 10 pm Monday to Friday, be undertaken within a fully enclosed building with all windows and doors to be shut and shall be limited to internal fit-out works
- construction staff working on the site during the extended construction hours adhere to appropriate noise reduction practices
- development complies with the requirements of the CNVMP required under Condition B23
- development is carried out in accordance with the recommendations of the Noise Report.

The Department also agrees with Council that the Applicant should not be allowed to deliver materials to/from the site when it deems necessary outside of the hours prescribed in the condition. The Department therefore, recommends the broad reference to 'other authorities' in Condition C1 be limited to 'police and the RMS'.

As a final safeguard, the Department also recommends a new condition enabling the Department to require the Proponent to restrict construction hours or revert to the standard construction hours where complaints from the community demonstrate the extended construction hours are causing offensive noise or are not being carried out in accordance with the conditions of approval.

On-balance, the Department considers that, subject to the above recommended conditions, the proposed extended hours would be acceptable for the following reasons:

- The extended hours would reduce the construction time by approximately six months, which significantly reduces the duration of impacts on neighbouring properties and all sensitive receivers; and will allow the new primary school to be operational for the 2018 school year.
- Existing conditions, which require the preparation of a CNVMP, with requirements for monitoring and minimising noise impacts during construction, would assist with mitigating and managing noise impacts.
- The Noise Report demonstrates the proposed works would not have an adverse impact on nearby sensitive residential receivers between 6 – 10 pm Monday to Friday and exceedances for residential

premises on Saturdays and Sundays are reasonable as they would be limited to no later than 5 pm, and are well below the ICNG 'highly noise affected' criteria of 75 dB(A).

- Noise impacts on non-residential properties would be appropriately managed as noisy works would be limited to no later than 6 pm Monday to Friday and 5 pm Saturdays and Sundays, and will be required to comply with the relevant NMLs during sensitive times on Sundays.

The Department also notes Council consider the extended hours to be acceptable and no public submissions were received.

The Department's assessment therefore concludes the extension of construction hours is in the public interest, and subject to the recommended conditions, the potential construction noise impacts can be appropriately managed.

## 8. CONCLUSION

The Department has assessed the modification application and supporting information in accordance with the relevant requirements of the EP&A Act. The Department's assessment concludes the proposed modification is appropriate on the basis that:

- It would ensure the new public primary school can open for the 2018 school year, which is in the public interest;
- it would reduce the overall construction period by an estimated six months;
- noise impacts to residential receivers are below the ICNG NML during the Monday to Friday extended construction hours and are not at any time predicted to exceed 75 dB(A); and
- the recommended amendments to condition C1, together with the existing conditions would ensure noise impacts are appropriately mitigated and managed.

Consequently, it is recommended that the modification be approved subject to the recommended conditions.

## 9. RECOMMENDATION

It is RECOMMENDED that the Director, Modification Assessments, as delegate of the Minister for Planning:

- **considers** the findings and recommendations of this report;
- **approves** the application under section 96 (1A), subject to conditions; and
- **signs** the notice of modification (**Appendix A**).

Natasha Harras  
Team Leader  
**Modification Assessments**

Anthony Witherdin  
**Director**  
**Modification Assessments**

## **APPENDIX A: NOTICE OF MODIFICATION**

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A copy of the notice of modification can be found on the Department's website at:

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=8493](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8493)

## **APPENDIX B: SUPPORTING INFORMATION**

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The following supporting documents and supporting information to this assessment report can be found on the Department of Planning and Environment's website as follows:

1. Modification request

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=8493](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8493)

2. Submissions

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=8493](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8493)