

28 August 2017

12255

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

Attn: Emma Butcher – Key Sites Assessments

Dear Emma,

Response to Submissions – SSD7388, Modification 4

Section 96(2) – 31 Wheat Road, Sydney

This Response to Submissions has been prepared by Ethos Urban on behalf of Grocon, in relation to SSD 7388, Modification 4 (Mod 4), relating to The Ribbon development at 31 Wheat Road, Sydney (the site). Modification 4 relates to an extension of approved hours during the construction period of the approved development at the site. During the DA notification period, one submission was received from the City of Sydney (Council), one submission received from the NSW Environmental Protection Authority (EPA), as well as nine submissions received from members of the public. The response to the issues contained in each of the submissions received has been detailed in the following sections, and a 'Review of Extended Hours for Construction' statement has been provided by Acoustic Logic to support the statement at **Attachment A**, as well as Supplementary Information provided by Grocon and Acoustic Logic at **Attachment B**.

1.0 Condition Wording

In its submission to the modification application, the City of Sydney Council (Council) noted that the proposed wording of the condition was inconsistent with the 'City of Sydney Construction Hours / Noise within the Central Business District Code of Practice 1992'. Specifically, Council noted an inconsistency between the words 'periods' and 'works', as defined under the above policy.

Council is correct in noting that the wording should have read 'periods', in order to reflect the nature of the policy. In light of the above, it is proposed that the condition wording be revised to read as follows:

(D2) ~~Internal W~~works may be undertaken outside of the approved hours of work outlined in Condition D1, ~~only in accordance with the Recommended Management Controls defined in the “Ribbon Hotel Extended Hours Construction Noise Assessment” prepared by Acoustic Logic Limited dated 28 June 2017 together with identified additional management controls within “The Ribbon, Extended Working Hours Application, Supplementary Information, 24 August 2017” prepared by Grocon and achieving: after the completion of the external shell and the sealing of the entire floor, during the following hours:~~

- ~~a) between 7:00pm and 7:00am, Mondays to Fridays inclusive; and~~
- ~~b) between 5:00pm and 7:00am, Saturdays, subject to:~~
 - a) between 6:00am and 7:00am, Monday to Saturday;
 - b) between 7:00pm and 12:00am, Monday to Friday; and
 - c) between 5:00pm and 12:00am, Saturdays subject to:
 - d) no works are to be undertaken during Sundays or Public Holidays; and
 - e) no works are to be undertaken externally without the prior consent from the Secretary;
- ~~d) e) no material delivery or removal of waste must take place during the extended hours. ; and~~
- ~~e) approval is not given for the use of any high noise intrusive plant and equipment other than hand operated power tools.~~

Internal works may be undertaken outside of the approved hours of work outlined in Condition D1 and during the hours noted above after the completion of the external shell and the sealing of the entire floor.

No changes continue to be sought to Condition D1 under this modification application. Further clarification to the sealing of the floor has been provided at **Section 2.0** below.

2.0 Closed Facade

Clarification has been sought from the City of Sydney regarding the definition of the proposed 'sealing' as part of its submission. To this respect, it is noted that the above revised conditions will help to clarify that internal hours subject to Condition D2 will be undertaken following completion of the external shell and the sealing of the entire floor.

The above revised condition wording enables a condition framework which ensures that development will comply with appropriate noise levels through assessment against the Category Periods contained within Council's policy, which ensures that adequate noise levels are provided to facilitate acoustic amenity. This condition wording also invokes the 'Recommended Noise Management Controls' outlined at Section 5 of the originally submitted Construction Hours Noise Assessment by Acoustic Logic. Finally, the above condition ensures that construction noise impacts continue to be reinforced in accordance with Condition D25. On this basis, revised condition wording

provides clarity around the nature of construction noise impacts which would be approved out of this modification application.

3.0 Acoustic Monitoring

Council additionally noted the nature of the data which had been measured as dating back to May 2012, and requested clarification around the additionally supplementary attended noise measurements and the comparability of the data provided. The response letter from Acoustic Logic at **Attachment A** clarifies this, specifically noting the following:

- *The background noise logging conducted in 2012 remains suitable for the site and in many respects are more indicative of the representative background noise levels (RBL) at the site as the area was not affected by construction noise from SICEEP development or the Ribbon development site.*
- *In addition to the previously conducted noise logging conducted in 2012 (including the logging data provided in the report) additional supplementary attended short term noise levels have been undertaken at the site. The results of the additional noise level measurements undertaken at the site in 2017 during daytime and night time hours were either the same as previous noise logging or slightly higher than the 2012 noise logging.*

In effect, this means that the 2012 data modelled represents a lower base level of noise than measurements undertaken since, by virtue of the construction currently being undertaken at the site, and in the site's vicinity. The effect of this is that testing undertaken against the 2012 levels will be equally, if not more stringent than testing undertaken against current levels. Accordingly, Acoustic Logic concludes that based on the results of the attended noise logging the RBLs used in the assessment of extended working hours are suitable to ensure noise from the proposed works comply with the relevant noise level criteria as detailed in the submitted 'Extended Hours Construction Noise Assessment'.

In addition to the submission made by the City of Sydney, eight submissions were made by members of the public, with most of these from residents of buildings in the vicinity of the site. Generally, these comments related to:

- noise impacts to nearby residential receivers;
- nature of the acoustic assessment undertaken; and
- the proposed additional hours.

A submission was also received from the owners of Strata Plan 49249, which included a legal advice as well as an appended acoustic statement review. In response to this, it is noted that the proposed modification has been designed to comply with Condition D25 and the City of Sydney's 'Construction Hours / Noise within the Central Business District Code of Practice 1992'. This policy has been designed to enable the undertaking of works during the night time period, on the basis that the works meet certain requirements regarding noise levels. Accordingly, the proposed work noise levels would be consistent with the practice of other development in the City of Sydney LGA for 24 hour construction. If the proposed levels are compliant with the levels contemplated by this policy, then it

can be concluded that the noise levels undertaken are appropriate within the Central Business District context, and will not have any adverse impacts on the surrounding area. Additionally, as noted in the initial submission, the extension of construction hours will achieve a shorter overall construction period at the site, which is to the benefit of surrounding owners / occupiers.

4.0 NSW EPA Submission

A submission was also received as part of the notification process from the NSW EPA. This submission acknowledged that as the proposed work is being undertaken on or behalf of a public authority, the NSW EPA is not the appropriate regulatory authority for the proposal. However, the EPA asserted that the proposed additional hours do not satisfy the justification requirements in accordance with Section 2.3 of the Interim Construction Noise Guideline (Guideline).

In response to this, an additional supplementary review has been prepared, and submitted at **Attachment B**. Principally, it needs to be acknowledged that the site is located within a unique location, and is bounded by a number of public assets which include:

- RMS assets, including the Western Distributor and a number of key arterial roads;
- Ausgrid Assets;
- Cross City Tunnel (CCT) Assets;
- Sydney Water Assets; and
- Property NSW Assets, including the public domain of the Darling Harbour Foreshore.

A full schedule of assets owned by the various authorities in close proximity of the site has been detailed in the supplementary review at **Attachment B**. To this respect, in order to enable the provision of additional hours, the following categories nominated under the Guideline are relevant to this application:

“public infrastructure works that shorten the length of the project and are supported by the affected community.”

“works where a proponent demonstrates and justifies a need to operate outside the recommended standard hours.”

The proposed development is considered appropriately justified for the reasons outlined at **Attachment B** and below:

- The land owner of the site and an affected government body, Property NSW, has provided their endorsement and support of the proposed extended construction hours through the land owner's consent submitted as part of this modification application.
- The site is within uniquely close proximity to a multitude of public assets, which are collectively of importance to the functioning of Sydney's Central Business District. Whilst reasonable mitigating measures will continue to be considered and implemented, the risk of adverse impacts upon these public assets remains for as long as construction is being undertaken at the site. In effect, the most appropriate measure to mitigate this risk is to work towards minimising the

period of construction in the vicinity of these assets, and the optimal manner of doing that is to utilise the extended construction periods (as has been proposed).

- By allowing for appropriate activities to be undertaken in the extended periods, this effectively works to minimise the overall duration of works around the site, which will in turn provide an adequate risk management strategy for the works program on the surrounding assets.
- Of specific importance to this application is the impact of the approved construction on the Property NSW public domain area around the base of the building. **Figure 1** below provides a comparison of the extent of the permanent building (red) against the approved construction zone (blue), demonstrating that there will be impacts on a significant area of public domain during the works. At the completion of works, this area will be upgraded and returned to public use. The public domain area surrounding the site is of very high importance to the functioning of the Darling Harbour area as a tourist precinct, and accordingly there are significant benefits to the greater community by reducing the construction impacts to the shortest timeframe possible.

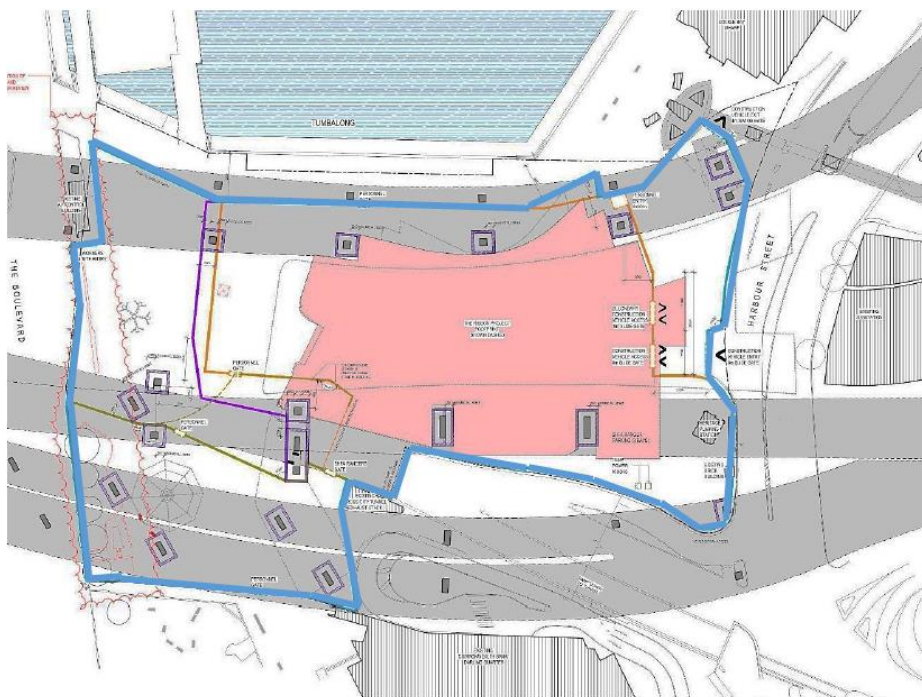


Figure 1- Comparison of the future building form (red) and the construction hoarding (blue).

- An extensive program of feasible and reasonable site management measures have also been identified, which include the following:
 - Continued compliance and amendment of the Noise Management Plan required under SSD 7388 in order to capture alternative work methods to minimise noise impacts.
 - Provision of additional management controls, including the prohibition of certain activities in the proposed additional hours, in order to mitigate the risk of noise exceedance. This includes the provision of additional work practices both during normal construction hours, as well as within the additional construction hours periods outside of the above periods.

- Continued notification of the work processes in accordance with the requirements of SSD 7388, including communication of the status of the project to the surrounding community via website.
- Continued provision of a specific complaints handling toll-free information phone line.
- Monitoring of equipment utilisation of by Grocon during the construction period to ensure that machinery is operating in accordance with its intended manner, and is in working order.

Further discussion and detailing of the measures proposed has been provided at **Attachment B**. Overall, it is considered that the additional information provided is sufficient in nature to justify variation to normal construction hours under Section 2.3 of the Guideline, and is accordingly worth of approval.

5.0 Conclusion

We believe that the above sections adequately address the various issues raised during the notification of SSDA7388 Modification 4, and accordingly request that assessment of the modification application continue. If you have any further queries, please do not hesitate to contact me on jbuchanan@ethosurban.com, or 9956 6962.

Yours sincerely,



Tim Smith
Urbanist, Planning
9956 6962
tsmith@ethosurban.com



Jennie Buchanan
Associate-Director, Planning
9956 6962
jbuchanan@ethosurban.com