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12255  
28 June 2017

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

Dear Madam

**SECTION 96(2) MODIFICATION- EXTENSION OF CONSTRUCTION HOURS  
31 WHEAT ROAD, SYDNEY**

On behalf of Grocon (Darling Harbour) Developments Pty Ltd we hereby submit an application pursuant to section 96(2) of the *Environmental Planning and Assessment Act, 1979* (EP&A Act) to modify SSD 7388 relating to The Ribbon development (former IMAX site).

This modification seeks approval for an extension in the permissible construction hours from the currently approved 7:00am-7:00pm Monday – Friday, and 7:00am – 5:00pm Saturday, to 6.00am to midnight six days per week. Sunday and public holiday hours are not proposed to change under this modification application.

Additionally, a protracted program of the various types of works which will be permissible within different periods of the day has been proposed, which will seek to provide the Department of Planning and Environment (DPE) with certainty around the impact of works at various times of the day. A Construction Noise Assessment has been prepared by Acoustic Logic on the basis of this program, and is appended to this statement at **Attachment A**.

**1.0 CONSENT PROPOSED TO BE MODIFIED**

Development consent SSD 15\_7388 was granted by the Planning Assessment Commission on 28 July 2016 for the redevelopment of the IMAX building, including:

- demolition of the existing IMAX building, tourist office and amenities block;
- construction of a new 25 storey building and separate 2 storey building;
- hotel, serviced apartments, retail and entertainment uses;
- 170 car parking spaces within the podium and 239 bicycle spaces at the ground level;
- Realignment of Wheat Road;
- Upgrade to the surrounding public domain including a new playground and relocation of heritage items; and
- Installation of a City Screen and signage zones.

Three previous modification applications have been lodged. The first two modifications related to the staging of the conditions of consent and have both been withdrawn prior to determination. Consequently, the conditions of consent remain as originally approved.

The third modification application relates to changes around the podium of the existing building has been submitted to the DPE and is currently in the preliminary stages of assessment.

## 2.0 PROPOSED MODIFICATIONS TO CONSENT

### 2.1 Modifications to the Development

This section 96(2) modification application seeks to change the approved construction hours, so as to enable works to be undertaken in the most time-efficient manner practicable, whilst avoiding any adverse acoustic impacts on surrounding receivers. Accordingly, no changes are sought to the final approved use or built form under this modification application.

### 2.2 Modifications to Conditions

The proposed modifications described above necessitate an amendment to condition D1 which outlined below. Words proposed to be deleted are shown in ~~bold strike through~~ and words to be inserted are shown in ***bold italics***.

#### *HOURS OF WORK*

*D1 All work, including demolition, excavation and building work, and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (eg. loading and unloading of goods, transferring of tools, etc) in connection with the proposed development must only be carried out:*

- (a) between 7:00am and 7:00pm, Mondays to Fridays inclusive; and*
- (b) between 7:00am and 5:00pm, Saturdays; and*
- (c) no work is to be undertaken on Sundays and public holidays; and*
- (d) works may be undertaken outside these hours where:*
  - i. it is required by a major works authorisation deed executed with the RMS; or*
  - ii. the delivery of materials is required outside these hours by Police or other authorities; or*
  - iii. it is required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm; and*
  - iv. variation is approved in advance in writing by the Secretary.*

*D2 ~~Internal W~~works may be undertaken outside of the approved hours of work outlined in Condition D1, only ***in accordance with the relevant categories of work outlined in "The Ribbon Hotel Extended Hours Construction Noise Assessment" prepared by Acoustic Logic, dated 28 June 2017. after the completion of the external shell and the sealing of the entire floor,*** Specifically, the following categories of work are permitted behind a closed facade 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 7.00m Monday to Saturday – Category 4 works,*
  - (b) between 7:00pm and 11:00pm, Monday to Friday – Category 2 works,*
  - (c) between 5:00pm and 11:00pm, Saturday – Category 2 works,*
  - (d) between 11:00pm and 12:00pm, Monday to Saturday– Category 4 works,*
  - (e) no further works are to be undertaken without prior consent from the Secretary;*
  - (f) Construction activities conducted during category 2 and 4 periods are to exclude hydraulic/nematic hammering, rock/concrete sawing or angle grinding.*
  - (g) no materials delivery or removal of waste must take place during the extended hours; and*
  - (h) No radios (cars or otherwise) are to be played external to the building envelope.*
  - (i) ~~approval is not given for the use of any high noise intrusive plant and equipment other than hand-operated power tools.~~*

### Proposed Works

The above modified condition has been designed as the basis for a program of works which would be able to be undertaken within the site, subject to the acoustic assessment at **Attachment A** and **Section 4.1**. Broadly, the scope of these works sought under this DA comprises:

- piling;
- drilling;
- hammering;
- use of concrete vibrator;
- cement mixing truck use;
- use of concrete pumps; and
- crane usage.

Sound power levels (in dB(A) for each of these activities have been outlined in the Acoustic Statement at Table 2.

### 3.0 SUBSTANTIALLY THE SAME DEVELOPMENT

Section 96(2) 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 modification to the approved construction hours will not alter the nature of the approved development, with the final building form remaining the same as that originally approved.

As the proposed construction hours will be limited to activities which comply with the relevant City of Sydney acoustic requirements, it can be ensured that there will be no unacceptable environmental impacts arising from the proposal. Further analysis of the various potential environmental impacts arising from this modification have been undertaken at **Section 4.0** below.

### 4.0 ENVIRONMENTAL ASSESSMENT

Under section 96(3) 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.

#### 4.1 Acoustic Impact

An Acoustic Assessment has been prepared by Acoustic Logic, which has been submitted as part of this application at **Attachment A**. 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 as to the management of noise impacts. The activities performed during the proposed extended hours of work will be compliant with the relevant standards.

The acoustic report identifies the “*City of Sydney Construction Hours / Noise Within the Central Business District Code of Practice (1992)*” as the most suitable noise criteria to assess the extended hours. These requirements have been replicated at **Table 1** below, with periods in which extended hours are proposed under this modification underlined. In addition, the statement has drawn from AS2436-1981.

**Table 1** – Relevant noise criteria contained under the City of Sydney Council’s “*Construction hours / noise within the Central Business District Code of Practice (1992)*” guideline.

Day	Time Period	Category	Noise Criteria
Monday – Friday	<u>00.00 – 07.00</u>	4	Background + 0dB(A)
	07.00 – 08.00	1	Background + 5dB(A)
	08.00 – 19.00	1	Background + 5dB(A) + 5dB(A) To be determined on a site basis
	<u>19.00 – 23.00</u>	2	Background + 3dB(A)
	<u>23.00 – 24.00</u>	4	Background + 0dB(A)
Saturday	<u>00.00 – 07.00</u>	4	Background + 0dB(A)
	07.00 – 08.00	1	Background + 5dB(A)
	08.00 – 17.00	1	Background + 10dB(A)
	<u>17.00 – 23.00</u>	2	Background + 3dB(A)
	<u>23.00 – 24.00</u>	4	Background + 0dB(A)
Sundays / Public Holidays	00.00 – 07.00	4	Background + 0dB(A)
	07.00 – 17.00	3	Background + 3dB(A)
	17.00 – 24.00	4	Background + 0dB(A)

### Noise Monitoring

Noise monitoring was undertaken at the site throughout the night time period over the week following 15 May 2012. Specifically, background noise was measured for the following time periods:

- 7:00pm – 11:00pm;
- 11:00pm – 12:00am; and
- 12:00am – 7:00am.

In accordance with this, background noise levels and construction noise objectives have been outlined for the proposed categories of development at **Table 2**.

**Table 2** – Background noise levels and construction noise objectives.

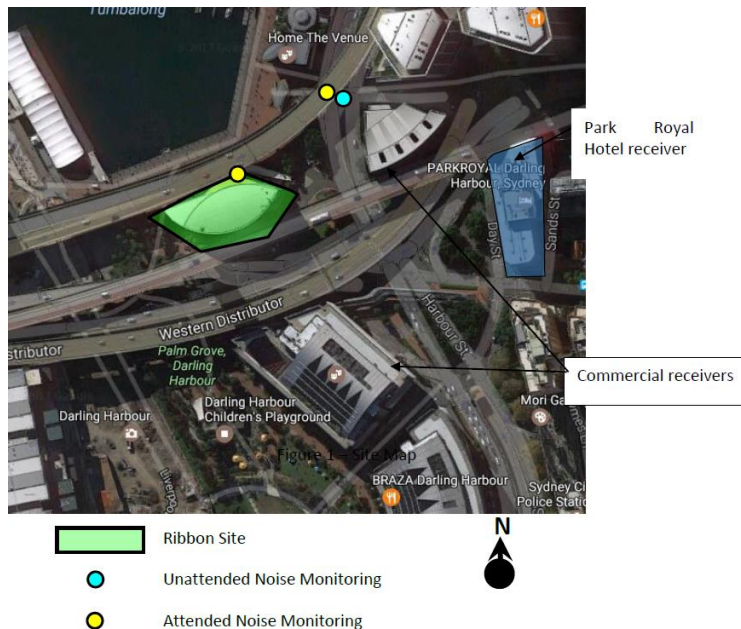
Category		Background Noise Level dB(A) L <sub>90</sub>	Construction Noise Objective dB(A) L <sub>10</sub>
2		64	67
4	11:00pm – 12:00am	64	64
	12:00am – 7:00am	58	58

### Nearest Receivers

The Acoustic Assessment identifies the following potentially affected noise receivers for the purposes of the acoustic assessment:

- The Park Royal Hotel (approximately 130m to the east of the site) (note the same criteria for assessment would apply to 158-166 Day Street which is the next nearest residential receiver to the Hotel);
- Commercial development at 1 Harbour Street, Sydney (approximately 65m to the south of the site); and
- Commercial development at 1 Blackwattle Place, Sydney (approximately 50m to the south of the site).

These receivers, as well as the location of noise monitoring machinery, have been identified at **Figure 1** below.



**Figure 1** – Sensitive receivers and noise monitoring locations diagram.

Source: Acoustic Logic

### Impact Assessment

In accordance with the testing undertaken, the Acoustic Assessment has determined that the proposed development can be undertaken within the nominated hours, on the basis of the following:

- The proposed works be conducted behind a closed façade.
- Construction activities conducted during Category 4 periods are to exclude any hydraulic / nematic hammering, rock / concrete sawing or angle grinding.
- Construction activities conducted during Category 2 periods are to exclude any hydraulic / nematic hammering, rock / concrete sawing or angle grinding.
- Deliveries are to be undertaken during normal construction hours in compliance with the existing site construction management plan.
- No radios (car or otherwise) are to be played external to the building envelope.

If the above conditions are met, then it is considered that the proposed additional hours of operation will not have any adverse acoustic impacts.

### 4.2 Public Interest

The proposed modification is seen to be in the public interest by virtue of the changed construction hours enabling a faster overall completion of the development. This will result in the general public being able to realise the benefits of the development site sooner, and will minimise the period of construction impacts. Given that the acoustic assessment has demonstrated that there will be no adverse acoustic impacts arising out of this proposed modification, it is therefore considered that the development is in the public interest.

## 5.0 CONCLUSION

The proposed modification to SSD 7388 sought under this application relates only to an extension of construction hours, and will result in a building form which is the same as that approved under the original DA. It has also been demonstrated in this statement that the proposed extended construction hours will not result in any adverse acoustic impacts.

In accordance with section 96(2) of the EP&A Act, the DPE may modify the consent given that:

- the proposed modification is of minimal environmental impact; and
- substantially the same development will result as development for which the consent was originally granted.

In light of the above, we recommend that Council approve this modification application as described above. Should you have any queries about this matter, please do not hesitate to contact me on 9956 6962 or [tsmith@jbaurban.com.au](mailto:tsmith@jbaurban.com.au).

Yours faithfully



Tim Smith  
*Urban Planner*



Jennie Buchanan  
*Associate Director*