

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSNH-409
DA Number	DA92/21/6
LGA	North Sydney
Proposed Development	Section 4.55(2) application seeking modifications to Condition E47 (Construction Hours) in Development Consent D92/21 for a five storey shop top housing (mixed use) development to permit additional construction hours.
Street Address	12-14 Waters Road, Neutral Bay
Applicant/Owner	Applicant: CE Waters Pty Ltd Owners: SP68360, SP75048, SP88483, Hari Om Investment Pty Ltd
Date of DA lodgement	10 May 2023
Number of Submissions	Fifteen (15)
Recommendation	Approval in part
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	<ul style="list-style-type: none"> • Original DA determined by SNPP • More than 10 submissions received objecting to the subject S4.55 application
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • <i>SEPP No.65 – Design Quality of Residential Apartment Development</i> • <i>SEPP (Building Sustainability Index: BASIX) 2004</i> • <i>North Sydney Local Environmental Plan 2013</i> • <i>North Sydney Development Control Plan 2013</i> • <i>Apartment Design Guide</i>
List all documents submitted with this report for the Panel's consideration	
Report prepared by	Robin Tse, Senior Assessment Planner
Report date	11 October 2023

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

Yes

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?

Yes

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

**Not
Applicable**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

**Not
Applicable**

Conditions

Have draft conditions been provided to the applicant for comment?

Yes

EXECUTIVE SUMMARY

The subject S4.55(2) application seeking extension of construction hours has been assessed against the *North Sydney LEP 2013* and *North Sydney DCP 2013* and found to be generally satisfactory subject to further modifications to Condition E47 to permit construction hours to be extended to 6.00pm, Monday to Friday only.

The applicant also seeks additional demolition/excavation and construction hours on Saturdays, however, it is found that the extended work hours would cause further nuisance, particularly noise nuisance, for the adjoining properties on Saturdays. Therefore, the proposed extended work hours on Saturdays are not supported

The issues raised in the submissions received have been addressed in this assessment report.

Having regard to the merits of the proposal, the application is recommended for approval subject to the modifications to Condition E47 to permit construction hours to be extended to 6.00pm, Monday to Friday.

DESCRIPTION OF PROPOSAL

The subject Section 4.55 (2) application seeks to modify Condition E47 modifying the approved construction hours as follows:

Type of work	Approved Hours	Proposed Hours
Construction	7.00am - 5.00pm (Mon to Fri) 8.00am - 1.00pm (Sat)	7.00am - 6.00pm (Mon to Fri) 8.00am - 3.00pm (Sat)
Demolition & Excavation	8.00am - 5.00pm (Mon to Fri)	8.00am - 5.00pm (Mon to Fri) 8.00am - 1.00pm (Sat)

The subject S4.55 application does not involve any physical changes to the approved 5 storey shop top housing (mixed use) development.

The applicant considered that the proposed modified construction hours are justified because the extended hours would be generally consistent with the construction hours as contained in the Draft Construction Noise Guidelines.

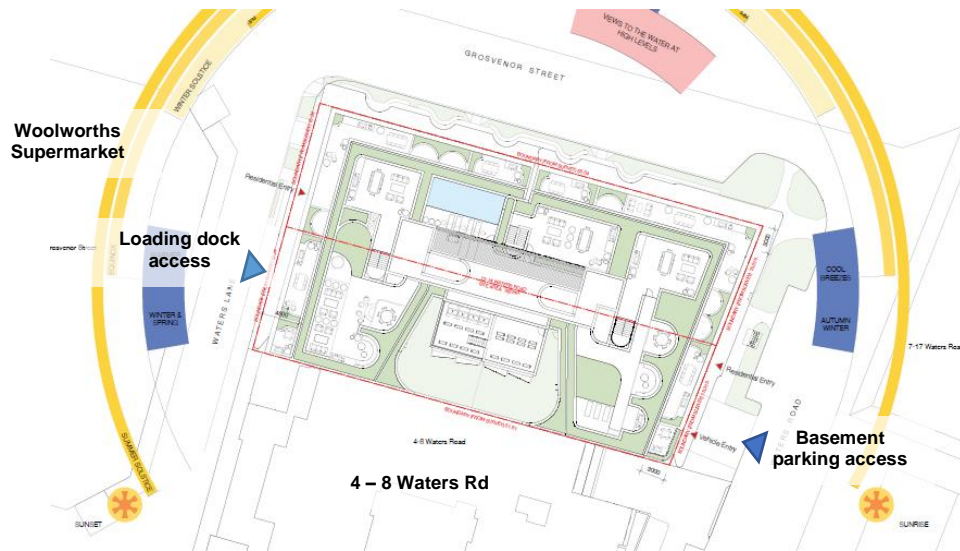
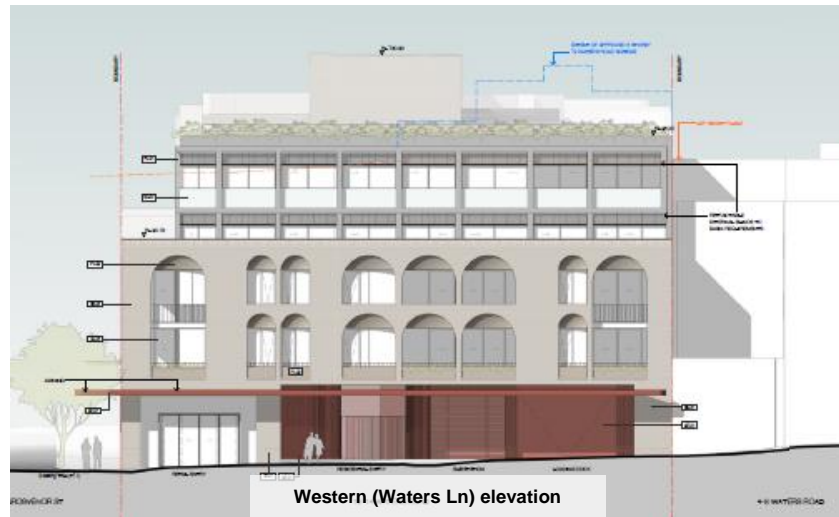


Figure 1: Site plan





Figures 2 – 5: Approved Development (Elevations)

STATUTORY CONTROLS

North Sydney LEP 2013

- Zoning – MU1 (Mixed Use)
- Item of Heritage – No
- In Vicinity of Item of Heritage – No
- Conservation Area - No

Environmental Planning & Assessment Act 1979 (as amended)

SEPP No.65 – Design Quality of Residential Apartment Development

SEPP (Building Sustainability Index: BASIX) 2004

Local Development

POLICY CONTROLS

North Sydney DCP 2013

- *Section 1 – Residential Development (for the proposed dwellings)*

Apartment Design Guide

North Sydney Local Infrastructure Contribution Plan 2020

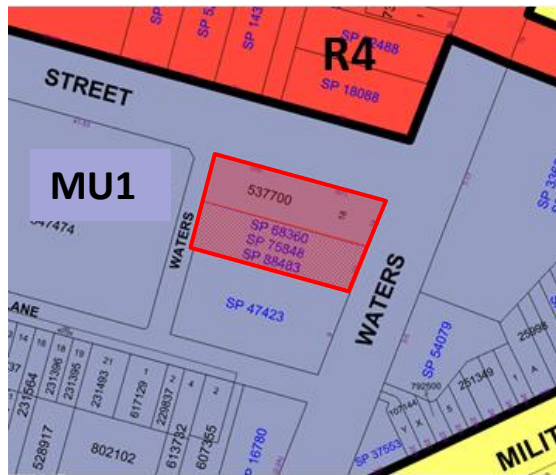


Figure 6: Land Zoning Map



Figure 7: Building Height Map

DESCRIPTION OF LOCALITY

The site comprises two (2) properties known as Nos 12 and 14 Waters Road and is legally described as:

- SP68360
- SP75048
- SP88483
- Lot 18 DP537700

The site has an approximate area of 1627sqm and is rectangular in shape. The site is bounded by Grosvenor Street to the north, Waters Road to the east and Waters Lane to the west. An existing mixed-use development at No.4-8 Waters Road adjoins the site on its southern boundary.

The site has a fall of approximately 2.5m towards the west (Waters Lane).

Currently, the properties at Nos 12 & 14 Waters Road are occupied by a four (4) commercial building and a three (3) storey commercial building respectively. The property at No.14 Waters Road is also known as Nos 55 – 57 Grosvenor Street as it has a northern street frontage to Grosvenor Street.

Currently, construction of the approved mixed use development is underway.



Figure 8: Subject site: Corner of Waters Road & Grosvenor Street



Figure 9: Subject site: Corner of Grosvenor Street & Waters Lane

The subject site is located on the eastern edge of the Neutral Bay Town Centre and is surrounded by other commercial/mixed use buildings with varying heights between one and five storeys.

Immediately adjoining the subject site to the south is a four (4) storey mixed use/shop top housing development at No. 8 Waters Road.

To the east of the subject site across Waters Road is a four (4) storey mixed use development at No.7-17 Waters Road. Across Waters Lane to the west of the subject site is a supermarket (Woolworths) with a basement/under floor car park.

The property across Grosvenor Street to the north of the subject site is occupied by a three (3) storey apartment building at No.82 Grosvenor Street.



**Figure 10: Aerial photo of the locality
(prior to commencement of demolition/construction)**

RELEVANT HISTORY

Previous Application:

7 October 2020 – North Sydney Local Planning Panel granted development consent DA104/20 for a shop top housing development at No.12 Waters Road only.

The approved development involves demolition of existing commercial building and the construction of a five storey mixed use/shop top housing development containing sixteen (16) apartments on the upper levels, retail/commercial tenancies on ground and basement levels and a part 3/4 level basement parking for 25 cars.

27 October 2021 – Sydney North Planning Panel (“**the Panel**”) granted the development consent (DA92/21) for “demolition of existing buildings, and construction of a five-storey shop top housing (mixed-use development with apartments on the upper levels, with commercial/retail tenancies below and basement parking” subject to two deferred commencement conditions.

The deferred commencement conditions relevantly required various amendments to the design and layout of the rooftop level and a number of apartments on Levels 3 and 4.

22 December 2021 - Council wrote to the Applicant confirming that it was satisfied that the matters set out in the deferred commencement conditions had been addressed by amended plans submitted by the Applicant. It was confirmed that the development consent operated from the date of the letter.

16 February 2022 - A Section 4.55(1A) application (DA92/21/2) was approved under delegated authority for changes to the wording of various conditions of consent to enable staging of construction certificates for the development.

12 July 2022 - A Section 4.55(1A) application (DA92/21/3) was approved under delegated authority for the amalgamation of apartments 2.07 and 2.08 to create a single apartment (apartment 2.07) containing 2 bedrooms and a library/bedroom.

20 February 2023 - A development application (D42/23) seeking an addition storey on top of the approved five (5) storey mixed use development was lodged with Council. The Applicant of D42/23 commenced proceedings in Class 1 of the Land and Environment Court’s jurisdiction appealing against the Respondent’s deemed refusal of the development application on 4 April 2023.

2 May 2023 - A modification application made pursuant to 4.55(2) of the *EP&A Act* (DA92/21/4) was approved under delegated authority for various internal and external changes to the approved mixed use/shoptop housing development.

Current Application:

10 May 2023 – The subject S4.55(2) application (D92/21/6) seeking changes to the construction hours as contained in Condition E47 was lodged with Council.

26 May to 9 June 2023 - The application was notified to the adjoining properties and the Brightmore Precinct Committee. Council received a total of fifteen (15) submissions objecting to the proposal.

13 September 2023 – The Sydney North Planning Panel (SNPP) was briefed about the proposed modifications. Additional information was requested from the applicant following the briefing.

9 October 2023 – The applicant provided the additional information as follows:

- The project builder has advised that the change to the proposed construction hours would reduce the overall construction programme by two (2) weeks, with bulk excavation completed by 10 November 2023. The two week time saving is only achievable with the proposed extended hours;
- The Christmas period site is likely to be closed between 24th December 2023 to 2nd January 2024. Between mid-December to mid-January period all bulk excavation would be completed and works in progress would be related to concrete works for the structure.
- Key Construction Programme Milestones (in page 7 of the Construction Noise and Vibration Management Plan):

Work item	Date
Start on site	20 June 2022
Demolition	30 November 2022
Bulk excavation	10 November 2023
Substructure completion	21 March 2024
Roof completion	9 August 2024
Façade watertight	6 August 2024
Interior fitout/Service completion	25 November 2024
External works completion	25 November 2024

CONSENT AUTHORITY

The original development application (D92/21) was determined by the SNPP because the approved development had a Capital Investment Value (CIV) of greater than \$30 million.

The notification of the subject S4.55(2) application has attracted fifteen (15) submissions and therefore the application is required to be determined by the SNPP in accordance with the Minister's direction.

EXTERNAL REFERRALS

N/A

INTERNAL REFERRALS

Environmental Health

The application was referred to Council's Team Leader Environmental Health who provided the following comments:

The proposed extension of construction hours on Saturday to 3pm is inconsistent with the Draft Construction Noise Guidelines for construction hours to end at 1pm on Saturdays.

The applicant has not provided sufficient justifications for construction works to be carried out after 1pm on Saturdays.

The applicant has proposed excavation works to be carried out on Saturdays between 8 am and 1pm. The noise and vibration associated with the excavation works would have significant impacts on the amenity of the nearby residents.

Comment:

The comments from Council's Team Leader Environmental Health are noted and concurred with.

Whilst no in-principle objection is raised to the extension of the construction hours on Mondays to Fridays by one (1) hour from 5pm to 6pm, concerns are raised about the extended construction hours on Saturdays from 1pm to 3pm and new demolition/excavation hours on Saturdays between 8am and 1pm because residents of the neighbouring properties are more likely to be at home on Saturdays and would potentially be adversely affected by the additional construction and particularly excavation works carried out on Saturdays.

It is recommended that Condition E47 be modified as follows:

Construction Hours

E47. Building construction and works must be restricted to within the hours of 7.00 am to ~~5.00 pm~~ 6.00 pm Monday to Friday and on Saturday to within the hours of 8.00 am to 1.00 pm inclusive, with no work on Sundays and Public Holidays.

Demolition and excavation works must be restricted to within the hours of 8.00 am to 5.00 pm Monday to Friday only. For the purposes of this condition:

- a) “Building construction” means any physical activity on the site involved in the erection of a structure, cladding, external finish, formwork, fixture, fitting of service installation and the unloading of plant, machinery, materials or the like.
- b) “Demolition works” means any physical activity to tear down or break up a structure (or part thereof) or surface, or the like, and includes the loading of demolition waste and the unloading of plant or machinery.
- c) “Excavation work” means the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders, or the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site and includes the unloading of plant or machinery associated with excavation work.

All builders, excavators must display, on-site, their twenty-four (24) hour contact telephone number, which is to be clearly visible and legible from any public place adjoining the site.

(Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community)

Traffic Engineers

Council’s Traffic Engineers have been consulted and have raised no in-principle objection to the proposal given that the measures in place on the approved Construction Traffic and Management Plan can be applied to the proposed extended work hours.

SUBMISSIONS

The subject S4.55 application was notified between 26 May and 9 June 2023. A total of fifteen (15) submissions have been received objecting the proposed changes to the construction hours. The submissions raised the following issues:

- Noise from excavation/construction works carried out within the subject site is already excessive.
- Additional construction noise and traffic affecting the Neutral Bay town centre, surrounding residential developments and the retirement village nearby.

- Additional construction traffic blocking vehicular access to nearby properties.
- Adverse impacts on the quality of life and the wellbeing of nearby residents due to longer construction hours.
- Adverse impacts on elderly residents nearby because they remain at home throughout the day.
- Adverse impacts on local businesses/traders due to additional truck movements during the extended construction hours.
- Additional construction hours are unacceptable because currently tenants cannot be found for nearby rental properties due to construction noise.
- Concerns raised on likely increase in construction traffic causing pedestrian hazards associated with student drop off for a nearby school during morning hours.
- Information in the Construction Noise and Vibration Management Plan is not up to date and potentially misleading.
- The submitted reports/statements have failed to demonstrate that the construction noise is not harmful to residents of surrounding properties.
- The EPA Construction Noise Guidelines are guidelines only and stricter control should be adopted to protect the amenity of the neighbourhood.
- Objection is raised to the proposed increase in building height.

Full copies of all submissions received for this application will be made available for perusal by the Panel.

CONSIDERATION

Environmental Planning and Assessment Amendment Act 1979

The relevant matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979* (as amended), are assessed under the following headings:

SEPP No. 65 (Design Quality of Residential Flat Development)

The proposed modifications to the construction hours as contained in condition E47 would not change the level of compliance with the relevant aims, objectives and provisions as contained in SEPP 65 and the Apartment Design Guide (ADG).

SEPP (Building Sustainability Index: BASIX) 2004 SEPP (Sustainability Buildings) 2022

On 1 October 2023, the *SEPP (Sustainable Buildings) 2022* came into effect, which repealed the *SEPP (Building Sustainability Index: BASIX) 2004*. However, as this application was submitted prior to 1 October, the new BASIX standards do not apply.

In addition, the proposed modifications to the construction hours only do not require the submission of a revised BASIX Certificate.

NORTH SYDNEY LEP 2013

1. Permissibility within the zone

The land affected by the proposed development is zoned MU1 (Mixed Use) pursuant to the *North Sydney LEP 2013*, and development for the purpose of “shop top housing” is permissible in the zone with the consent of Council. The proposed modifications to the construction hours associated with approved shop top housing are permissible within the MU1(Mixed-use) zone with consent from Council.

2. Zone Objectives

The proposed mixed use development is generally consistent with the above objectives of the MU1 (Mixed Use) zone subject to the further amendments to the construction hours as detailed throughout this report.

3. Building Heights

The proposed modifications to the construction hours would not change the height of the shop top housing/mixed use building as previously approved.

4. Non-Residential Floor Space Ratio (FSR)

The proposed modifications to the construction hours would not change the non-residential floor space ratio as previously approved.

5. Earthworks

The proposed modifications do not involve additional earthworks.

NORTH SYDNEY DEVELOPMENT CONTROL PLAN 2013

The proposal has been assessment under the following heading within NSDCP 2013:

North Sydney DCP 2013 - Compliance Table

DEVELOPMENT CONTROL PLAN 2013 – Part B Section 2- Commercial and Mixed Use Development		
	<i>complies</i>	<i>Comments</i>
2.3 Environmental Criteria		
Noise Acoustic Privacy	Yes (via condition)	As indicted earlier in this report, Council's Team Leader, Environmental Health has raised concerns about the impacts from extended demolition, excavation works and construction hours on Saturdays on the surrounding residential properties. It is therefore recommended that the construction works be only extended to 6.00pm, Mondays to Fridays and no extension of work hours on Saturdays in order to minimise any impacts on the amenity of nearby residents.
Views Solar Access	No change	The proposed modifications to the construction work hours would have no additional impacts in terms the loss of significant views and solar access to the adjoining properties given that the proposal would not result in any physical changes to the approved development.
Visual Privacy	No change	The proposed modifications to the construction work hours would have no additional visual privacy impacts for the resident of nearby properties.
2.4 Quality built form 2.5 Quality Urban Environment		
	No change	The proposed modifications to the construction hours would not change the built form of the approved development and how it relates to the urban environment in terms of accessibility, quality of the residential accommodation, provision of private open space, vehicular access, car parking, garbage storage and site facilities.

2.6 Efficient Use of Resources		
Energy Efficiency	No change	The proposed modifications would not affect the thermal performance of the approved development.

North Cremorne Planning Area (Neutral Bay and Cremorne Town Centres)

The application has been assessed against the relevant controls in NSDCP 2013 and generally found to be satisfactory as shown in the earlier compliance table.

The proposed modifications would also be generally consistent with Part C of North Sydney DCP 2013 in particular Section 5 of the Character Statement for North Cremorne Planning Area and Section 5.1 for Neutral Bay and Cremorne Town Centres.

NORTH SYDNEY LOCAL INFRASTRUCTURE CONTRIBUTIONS PLAN 2020

The proposed modifications would not change the approved development in terms of the number of apartments and non-residential floor space, therefore, no amendments are required for the amount of contribution as indicated in Condition C43 of the original development consent.

Consideration of the reasons given by the consent authority for the grant of the consent that is sought to be modified in accordance with Section 4.55(3).

Section 4.55 (3) requires the reasons given by the consent authority (SNPP) for the granting of the consent that is sought to be modified. In this case, the reasons for granting the original permission, which is sought through this application to be modified, are set out in the notice of determination of the original DA. The reasons for the granting of a deferred commencement consent were:

- *The North Sydney LEP building height map specifies a maximum building height of 16 m for the subject site. However, the proposal breaches the LEP height limit in the area of the upper section of Level 5, the roof slab including planters, communal swimming pool, communal/private terraces and a structure housing the building services cores (2 x lift overruns/fore stairs and a 25 m² communal room). The building services and communal room structure is located at the centre of the roof level with the top of this structure reaching a maximum height of 21.3 m which breaches the LEP maximum building height limit by 5.3 m.*
- *Despite the height breach, the Panel concurs with Council that the height, bulk and scale of the proposed shop top housing development would generally be consistent with other similar developments within the Neutral Bay Town Centre. The building elements in breach of the building height development standard would not be easily discernible from the public domain or result in unacceptable loss of significant views, overshadowing or privacy impacts. The five-storey built form would be generally consistent with the B4 Mixed-use zoning and relevant planning controls.*
- *The original DA was lodged with Council in April 2021 but was significantly amended after public, Council and Design Excellence Panel Feedback. An amended proposal was submitted in July and Council's Design Excellence Panel reviewed the proposal again. Subsequently, the Applicant submitted further updates to plans and additional information.*
- *Council's Assessment Report recommended deferred commencement conditions requiring design modifications to the layout of the rooftop areas to provide more suitable communal areas and changes to the design of four (4) apartments on two upper levels to provide additional building separation and to improve access to daylight and natural ventilation within the light well.*
- *The Panel met with the Applicant and Council to review Council's comprehensive*

Assessment Report. The meeting also discussed the detail of the Applicant's 4.6 written request, deferred commencement conditions and communal rooftop facilities. The Panel discussed the inclusion of additional rooftop shade structures to improve the year-round functionality of the communal rooftop facilities, but concluded, the proposed landscaping, once established, and proposed awning to be sufficient.

- *The development application has been assessed against the North Sydney LEP 213 and North Sydney DCP 2013, SEPP 65 - Design Quality of Residential Apartment Development and the Apartment Design Guide and found to be generally satisfactory.*
- *The Panel concurs with Council that the Applicant's amended design, including deferred commencement changes, provide a more compliant five-storey built form and retail and commercial spaces which address concerns raised by the public, Council Officers and Council's Design Excellence Panel.*
- *Accordingly, the Panel believes approval of the Development Application is in the public interest.*

It is not considered that these reasons for consent would be altered by the amendments as detailed in this report because of the following reasons:

- The proposed modifications would result in a development which is substantially the same development as originally approved as the proposed changes only relate to amendments to the construction hours;
- The proposed modifications would not change the overall level of compliance with the relevant LEP and DCP provisions and requirements;
- The proposed modifications would not change the development outcome in terms of height, bulk and scale, envelope and appearance of the approved apartment building; and
- The proposed modifications would have no material amenity impacts for the adjoining properties subject to the imposition of a modified condition relating to construction hours.

SITE SUITABILITY

The proposed development is considered to be suitable for the subject site subject to the imposition of the amended condition E47.

PUBLIC INTEREST

The development is considered to be generally in the public interest for the reasons provided within this report and subject to the amended Condition E47.

ALL LIKELY IMPACTS OF THE DEVELOPMENT

All likely impacts of the proposed development have been considered within the context of this report.

ENVIRONMENTAL APPRAISAL

CONSIDERED

- | | | |
|----|---|-----|
| 1. | Statutory Controls | Yes |
| 2. | Policy Controls | Yes |
| 3. | Design in relation to existing building and natural environment | Yes |
| 4. | Landscaping/Open Space Provision | N/A |

5.	Traffic generation and Carparking provision	N/A
6.	Loading and Servicing facilities	N/A
7.	Physical relationship to and impact upon adjoining development (Views, privacy, overshadowing, etc.)	Yes
8.	Site Management Issues	Yes
9.	All relevant S4.15 considerations of Environmental Planning and Assessment (Amendment) Act 1979	Yes

SUBMITTERS CONCERNS

The notification of the subject S4.55 application has attracted a total of fifteen (15) submissions.

The issues raised in the submissions received primarily relate to the proposed longer work hours will result in an increase in construction noise and traffic and the associated adverse impacts on the amenity of nearby residents.

- ***Additional construction noise and associated impacts***

Comment:

As indicated earlier in this report, concerns have been raised about the additional impacts on the amenity of nearby residential properties on Saturdays. It is therefore recommended that the approval is to be granted for the additional construction hour to 6.00pm, Monday to Friday and no further extension of the hours of works on Saturday.

- ***Additional construction traffic will have adverse impacts on the local traffic network and associated safety concerns***
- ***Increase safety hazards for student of a nearby school during morning school drop off hours.***

Comment:

The proposed modifications are unlikely to result in significant impacts on the local traffic network and traffic safety because the applicant is required to comply with the requirements/measures as outlined in the approved Construction Management Plan.

In addition, the recommendation to permit any additional work hours on weekdays only should ensure that there would be no additional construction traffic on Saturdays to minimise any further impacts on the amenity of the nearby residential properties.

The applicant has not proposed changes to the approved construction hours on weekdays. Therefore, it is unlikely that the proposed modifications would have significant negative safety impacts during the morning school drop off hours on weekdays.

- ***Information in the Construction Noise and Vibration Management Plan is not up to date and potentially misleading.***
- ***The submitted reports/statements have failed to demonstrate that the construction noise is not harmful to residents of surrounding properties.***
- ***The EPA Construction Noise Guidelines are guidelines only and stricter control should be adopted to protect the amenity of the neighbourhood.***

Comment:

The applicant has submitted sufficient information for the assessment of the subject S4.55 application in accordance with Clause 24 of the *Environmental Planning and Assessment Regulations 2021*.

In addition, the recommendation to permit any additional work hours on weekdays only should ensure that there would be no additional construction noise/traffic on Saturdays to minimise any further impacts on the amenity of the nearby residential properties.

- ***Additional construction hours are unacceptable because currently tenants cannot be found for nearby rental properties due to construction noise.***
- ***Objection is raised to the proposed increase in building height.***

Comment:

The issues relating to the prospect of securing tenants and the increase in building height are outside the scope of the subject proposed modifications.

It is however noted that the recommended extension of construction hours would apply to weekdays only in order to minimise impacts on the amenity of the neighbouring residential properties.

CONCLUSION + REASONS

The subject S4.55(2) application seeking extension of construction hours has been assessed against the *North Sydney LEP 2013* and *North Sydney DCP 2013*, and found to be generally satisfactory subject to modifications to Condition E47 to permit construction hours to be extended to 6.00pm, Monday to Friday.

The applicant also seeks additional demolition/excavation and construction hours on Saturdays, however, it is found that the extended work hours would cause further nuisance, particularly noise nuisance, for the adjoining properties on Saturdays. Therefore the proposed extended work hours on Saturdays are not supported.

The issues raised in the submissions received have been addressed in this assessment report.

Having regard to the merits of the proposal, the application is recommended for approval subject to modifications to Condition E47.

HOW WERE THE COMMUNITY VIEWS TAKEN INTO CONSIDERATION?

The subject S4.55 application was notified between 26 May and 9 June 2023. A total of fifteen (15) submissions have been received objecting the proposed changes to the construction hours. The issues raised in the submission have been addressed throughout the assessment report.

RECOMMENDATION

PURSUANT TO SECTION 4.16 OF *ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979* (AS AMENDED)

- A. **THAT** the Sydney Regional Planning Panel, as the consent authority, assume the concurrence of the Secretary of The Department of Planning, Industry, and **grant consent** to Development Application No.92/21/6 for the demolition of existing

commercial buildings and construction of a five (5) storey shoptop housing/mixed use building with containing 36 apartments, retail tenancies and parking within the basement for 100 cars, and associated landscaping, at Nos 12-14 Waters Road, Neutral Bay, subject to modifications to Condition E47 below:-

Construction Hours

E47. Building construction and works must be restricted to within the hours of 7.00 am to ~~5.00 pm~~ **6.00 pm** Monday to Friday and on Saturday to within the hours of 8.00 am to 1.00 pm inclusive, with no work on Sundays and Public Holidays.

Demolition and excavation works must be restricted to within the hours of 8.00 am to 5.00 pm Monday to Friday only. For the purposes of this condition:

- a) "Building construction" means any physical activity on the site involved in the erection of a structure, cladding, external finish, formwork, fixture, fitting of service installation and the unloading of plant, machinery, materials or the like.
- b) "Demolition works" means any physical activity to tear down or break up a structure (or part thereof) or surface, or the like, and includes the loading of demolition waste and the unloading of plant or machinery.
- c) "Excavation work" means the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders, or the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site and includes the unloading of plant or machinery associated with excavation work.

All builders, excavators must display, on-site, their twenty-four (24) hour contact telephone number, which is to be clearly visible and legible from any public place adjoining the site.

(Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community)

Robin Tse
SENIOR ASSESSMENT OFFICER
