

4 September 2018
15190

Mr Anthony Witherdin
Director of Modification Assessments
GPO Box 39
Sydney NSW 2001

Attention: Natasha Harras, Team Leader

Dear Natasha

**SECTION 4.55(1A) MODIFICATION APPLICATION – SSD 7014 (MOD 4)
HYATT REGENCY ZEPHYR BAR – 161 SUSSEX STREET, SYDNEY**

This application has been prepared by Ethos Urban on behalf of GL InvestmentCo Pty Ltd ATF GL No. 1 Trust, pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to modify Development Consent SSD 7014 relating to the Hyatt Regency's Zephyr Bar, located at Level 12, 161 Sussex Street, Sydney. The site is legally described as Lot 2 in DP 1237311 and sits within the boundary of lands controlled by the Sydney Harbour Foreshore Authority (SHFA).

Specifically, the proposed modification seeks to extend the approved 24 hours a day, 7 days a week operating hours for the Zephyr rooftop bar for a further 60 months beyond the 24 month extended initial trial period as stipulated in Condition of Consent A6 – Hours of Operation – Level 12 Rooftop Bar.

This application identifies the consent and describes the proposed modifications and is accompanied by:

- Completed application form;
- Land owner's consent;
- Liquor License for the Hyatt Regency (**Attachment A**);
- Endorsed Plan of Management (**Attachment B**); and
- Hyatt Regency Operational Confirmation (**Attachment C**).

1.0 Consent proposed to be modified

Consent for SSD 7014 was granted under delegation from the Minister for Planning on 26 February 2015 for the construction of a new executive lounge and public bar over two levels on the existing rooftop of the north tower of the Four Points by Sheraton Hotel, and for that area to operate 24 hours a day, 7 days a week. This application included:

- 452m² GFA for an executive lounge at Level 11;
- 475m² GFA for a public bar at Level 12;
- Associated amenities including bar store and kitchen; and
- A plant room.

This consent has since been modified three times in total. The most recent modification being MOD 3 which was determined on 22 December 2017 and allowed for the extension of the 24 hours a day, 7 days a week trading for a further 24 months from this date. Accordingly, under the current consent the hours of operation for the rooftop bar will revert to 7am to midnight Monday to Sunday on 22 December 2019.

2.0 Proposed modifications to the consent

2.1 Modifications to the development

It is sought to extend the 24 hour, 7 days a week trading hours for the rooftop bar for an additional 5 years (60 months) to take effect following the conclusion of the second extended hours trial, on 22 December 2019. The proposed changes to the conditions of consent to facilitate this modification are provided below.

2.2 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 **bold and underlined**:

Development in Accordance with Plans and Documentation

A3. The applicant shall carry out the project in accordance with the following documents and plans...

(f) the modification application (SSD 7014 MOD 4) prepared by Ethos Urban, dated 4 September 2018

...

Hours of Operation - Level 12 Rooftop Bar

A6. The rooftop bar located on Level 12 is permitted to operate 24 hours, 7 days per week for a period of ~~24 60-~~ months from the date of the ~~approval of modification application SSD 7014 MOD 3~~ **conclusion of the second trial period, being 22 December 2019**. After this ~~24 60-~~ month period, the approved hours of operation are 7 am to midnight Monday to Sunday, unless otherwise approved by a modification application.

3.0 Substantially the same development

Section 4.55(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 development, as proposed to be modified, is substantially the same development as that originally approved in that it:

- Does not result in any physical changes to structures; and
- Seeks to maintain and extend the current and approved operating regime for the Zephyr bar.

4.0 Environmental assessment

Section 4.55(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 4.55(3) the consent Authority must also take into consideration the relevant matters to the application referred to in section 4.15(1) of the EP&A Act and the reasons given by the consent authority for the grant of the original consent. The following assessment considers the relevant matters under section 4.15(1) and demonstrates that the development, as proposed to be modified, will be of minimal environmental impact.

The proposed extension to the approved trial period for 24 hour, 7 day a week operation will not result in any change to environmental impacts on the site or adjoining neighbours. The operation will continue to be entirely consistent with the conditions of the current liquor license on the site (refer **Attachment A**).

The comprehensive complaints management process required by Condition F10 of SSDA 7014 has been in operation since bar operations commenced and is an integral component of the DPE endorsed Plan of Management, dated 28 November 2016 (refer **Attachment B**).

Further, the applicant and hotel operator advise that there have been no complaints made to date in relation to external impacts of the 24 hour, 7 day a week operation of the Zephyr Bar (refer **Attachment C**). As such, the proposed modification application does not introduce any new environmental impacts outside of the management and mitigation regime already in place to appropriately manage sensitive surrounding receivers.

5.0 Conclusion

The proposed modification merely seeks to continue the current 24 hour, 7 day a week operation of the Zephyr Rooftop Bar, which has been operating successfully and without issue for in excess of 2 years. In accordance with section 4.55(1A) of the EP&A Act, the Department may modify the consent as:

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

We trust that this information is sufficient to enable a prompt assessment of the proposed modification request. Should you have any queries about this matter, please do not hesitate to contact me at the details below.

Yours sincerely,



Daniel Howard
Senior Planner
02 9409 4979
dhoward@ethosurban.com