

3 March 2021

2200231

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Department of Planning, Industry and Environment
320 Pitt Street
Sydney NSW 2000

ATTN: David Glasgow, Principal Planning Officer

Dear David,

**SECTION 4.55(1A) MODIFICATION APPLICATION
SSD 7388 – 31 WHEAT ROAD, SYDNEY (THE RIBBON)**

This application has been prepared by Ethos Urban on behalf of Greateon pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to modify Development Consent SSD 7388 relating to 31 Wheat Road, Sydney (the site). The development is better known as The Ribbon.

The modification seeks a reduction to the number of visitor bicycle parking spaces directly provided by The Ribbon development from 176 to 120, as Place Management NSW (PMNSW), the owner of the site and government agency responsible for the development of Darling Harbour, wishes to more holistically disperse bicycle parking across Darling Harbour rather than concentrate it within The Ribbon site.

This application identifies the consent, describes the proposed modifications, and provides an assessment of the relevant matters contained in section 4.55(1A) of the EP&A Act. This application is accompanied by:

- Letter of correspondence between PMNSW and DPIE (**Attachment A**);
- Revised Public Domain & Landscape Drawings prepared by Aspect Studios (**Attachment B**); and
- Correspondence with the Green Building Council of Australia (**Attachment C**).

1.0 Consent proposed to be modified

1.1 SSD 7388

Development consent SSD 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;
- car and bicycle parking facilities;
- realignment of Wheat Road; and
- upgrades to the surrounding public domain including a new playground and relocation of heritage items.

Following approval, eleven modification applications have since been prepared and are at various stages of assessment. These comprise the following:

- SSD 7388 MOD 1 and MOD 2, which sought to modify the staging of conditions of consent. The MOD 1 and MOD 2 applications were withdrawn prior to determination.
- SSD 7388 MOD 3 which sought a range of design changes to the podium and its internal spaces. This application was approved by DPIE on 2 November 2017.
- SSD 7388 MOD 4 which sought the provision of extended construction hours, broadly comprising 6.00am to midnight Monday to Saturday. This application was approved by DPIE on 10 November 2017.
- SSD 7388 MOD 5 which sought changes to reflect an updated room number configuration, in addition to changes to the layout between the serviced apartment and hotel components of the development. This application was also approved by DPIE on 10 November 2017.
- SSD 7388 MOD 6 which sought amendments to the tower envelope and facades, reconfiguration of the hotel swimming pool facilities, internal floor plan changes, additional signage size and external façade lighting. It also sought the provision of extended construction hours between midnight and 6.00am. MOD 6 was approved by DPIE on 19 December 2018.
- SSD 7388 MOD 7 seek modifications to facilitate an open roof above the hotel pool facilities at Levels 22 and 23 of The Ribbon building. This application was approved by DPIE on 12 August 2019.
- SSD 7388 MOD 8 sought minor internal changes to the layout of the building approved for the IMAX Cinema at the site. This application was approved by DPIE on 18 June 2019.
- SSD 7388 MOD 9 sought amendments to the approved hours of construction for a specified period. This application has since been withdrawn.
- SSD 7388 MOD 10 sought amendments for a redesign of the SHFA building, modifications to the Porte Cochere, modifications to the playground area, an adjustment of public domain levels and an adjustment of the approved. This application was approved by DPIE on 30 April 2020.
- SSD 7388 MOD 12 is concurrently seeking consent for the replacement of the 'City Screen' with a static LED sign, and is currently under assessment by DPIE. MOD 12 relates to a separate aspect of the approved development and therefore can be assessed concurrently with the subject modification application.

1.2 SSD 8838 and SSD 8839

Development consent SSD 8838 was granted by DPIE on 28 February 2019 for the fit out and operation of the hotel and serviced apartment components, ancillary facilities, and common areas of The Ribbon building. Development consent SSD 8839 was also granted by DPIE on 12 September 2019 for the fit out and operation of the IMAX component of the building. Neither SSD 8838 nor SSD 8839 affect the proposed modification to SSDA 7388 as sought under this application.

2.0 Proposed modifications to the consent

2.1 Modifications to the development

The proposed modification application seeks to reduce the number of approved visitor bicycle parking spaces at the site from 176 to 120 (representing a total net reduction of 56 spaces). Although the proponent (Greateon) remains keen on delivering the required bicycle parking infrastructure at the site, this change was requested by Place Management NSW (PMNSW), the landowner of the site and agency ultimately responsible for the orderly development and promotion of Darling Harbour. This is confirmed in the letters of correspondence between PMNSW and the Department of Planning, Industry and Environment (DPIE) at **Attachment A**.

This is as PMNSW has committed towards a more holistic approach towards bicycle cycling infrastructure throughout Darling Harbour, ensuring that bicycle spaces are distributed holistically across the area rather than concentrated in The Ribbon development site. To facilitate this, PMNSW has committed towards the preparation of a Darling Harbour Cycling Strategy which is expected for completion by the end of 2020 with the delivery of the required infrastructure within 24 months, as confirmed by the attached documentation.

The proposed reduction in bicycle parking spaces will not preclude the development's ability to achieve a 5 Green Star Design & As Built rating as required under the Agreement for Lease ('the AFL') between PMNSW (formerly Sydney Harbour Foreshore Authority) and the applicant dated 30 June 2016. This is as the provision of 120 spaces is sufficient for a 5 Green Star rating, as confirmed in correspondence with the Green Building Council of Australia provided at **Attachment C**. Greateon is obliged to undertake the reduction in bicycle parking spaces as requested by PMNSW under clause 18.9(a)(ii) of the AFL.

The proposed changes are shown in the revised Public Domain & Landscape Drawings prepared by Aspect Studios at **Attachment B**, an excerpt of which is shown in **Figure 1** below.



Figure 1 Revised location of bicycle parking facilities

Source: Aspect Studios

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 in **bold italics**.

A2 – The Applicant shall carry out the project generally in accordance with the:

- a) *Environmental Impact Statement (EIS) prepared by JBA Urban Planning Consultants Pty Ltd, dated December 2015;*
- b) *Response to Submissions (RtS) and Amendments to Proposed Development prepared by JBA Urban Planning Consultants Pty Ltd, dated March 2016;*
- c) *Additional information submitted subsequent to the RtS;*
- d) *Plan of Management dated 26 April 2016;*
- e) *Following drawings as set out in the table below, except for:*
 - i. *any modifications which are Exempt or Complying Development;*
 - ii. *otherwise provided by the conditions of consent.*
- f) *Section 96(2) modification application (SSD7388 MOD 3), prepared by JBA Urban Planning and dated 8 June 2016, as amended by Response to Submissions prepared by Ethos Urban and dated 24 August 2017.*
- [...]
- k) *Section 4.55(1A) modification application (SSD7388 MOD 10), prepared by Ethos Urban and dated 17 October 2019.*
- l) ***Section 4.55(1A) modification application (SSD 7388 MOD 11), prepared by Ethos Urban and dated 3 March 2021.***

[...]

<i>Public Domain/Landscape Drawings prepared by Aspect Studios</i>			
12023-LDA01	H	Public Domain Context Plan	16.12.19
12023-LDA04	H	Playground Detail Plan	16.12.19
12023-LDA06	H	Public Domain Planting Plan	16.12.19
12023-LDA07	B	Public Domain – Northern Waterfront Interface	16.12.19
12023-S96 01	B	Public Domain Plan	16.12.19
12023-S96 02	B	Public Domain Sections	16.12.19
12023-S96 03	B	Eastern Public Domain Detail Plan	16.12.19
12023-S96 04 12923-LDA08	B H	Allocated Bike Parking Public Domain Bike Parking Plan	16.12.19 December 2020
SK530		Eastern Pedestrian Clear Widths	23.01.20

B10 – The following bicycle parking is to be provided:

- a) *a minimum of 32 bicycle parking spaces within the ground floor level of the podium;*
- b) *a minimum of ~~176~~ 120 visitor bicycle parking spaces shall be provided within the public domain.*

Plans/details are to be approved by the Certifying Authority prior to issue of a Construction Certificate for Stage 2.

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 it relates to a reduction in the number of bicycle parking spaces at the site only, which is ultimately considered to be insignificant when the overall size and scale of the development is considered. It does not seek to alter the building envelope, or any of the approved landuses within The Ribbon building.

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.

4.1 Environmental Planning Instruments

The proposed amendments do not alter the development’s consistency with any Environmental Planning Instruments, including that of the *Darling Harbour Development Plan No. 1*.

4.2 Provision of active transport infrastructure

As aforementioned, the proposed modification will not compromise the delivery of critical cycling infrastructure at and around Darling Harbour. Under the revised scheme, PMNSW has committed to the delivery of bicycle parking spaces more holistically around Darling Harbour as part of the Darling Harbour Cycling Strategy currently under development, as opposed to concentrating bicycle parking around The Ribbon development. This is considered to be a superior public amenity outcome as it would more closely align with the needs and requirements of cyclists.

4.3 Sustainability

As noted above, the proposed changes will not impact the ability for The Ribbon project to meet its sustainability commitments, including achievement of a 5 Green Star rating, as the provision of 120 visitor bicycle parking spaces is sufficient for such a rating to be awarded. This is confirmed in the letter of correspondence between the Green Building Council of Australia and the applicant dated 4 February 2021, which is appended to this report at **Attachment C**.

4.4 Reasons given for granting consent

The provision of bicycle parking spaces was not mentioned as one of the key reasons for the development’s approval by the IPC. Nevertheless, PMNSW’s commitment to the more equitable distribution of cycling infrastructure at Darling Harbour is considered to be consistent with the overarching aim of The Ribbon development to promote and increase rates of cycling and active transportation throughout Darling Harbour.

4.5 Site suitability and public interest

For the reasons given above, the redistribution of bicycle parking infrastructure across Darling Harbour is considered to be suitable for the site, and in the public interest.

5.0 Conclusion

The proposed modification application seeks a reduction to the number of visitor bicycle parking spaces directly provided by The Ribbon development from 176 to 120. This is as Place Management NSW (PMNSW), the landowner of the site and agency responsible for the development and growth of Darling Harbour, wishes to more equitably distribute bicycle parking across the area rather than concentrate it within The Ribbon development, as consistent with the Darling Harbour Cycling Strategy currently under development.

In accordance with section 4.55(1A) of the EP&A Act, Council 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.

Yours sincerely,



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