

13 December 2021

2200231

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

ATTN: David Glasgow, Principal Planning Officer, Key Sites Assessments

Dear David,

## **SECTION 4.55(1A) MODIFICATION APPLICATION – SSD 7388 31 WHEAT ROAD, SYDNEY (THE RIBBON) – MOD 15**

This Modification Application (MOD 15) has been prepared by Ethos Urban on behalf of Tianlong Ribbon Pty Ltd (Greaton), 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 aims to modify conditions of consent F9(1), F15 and F16 relating to the level 22-23 'open roof' swimming pool and bar area to deliver a more enjoyable patron experience while not generating unreasonable environmental impacts.

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 should be read in conjunction with the following appended documentation:

- Noise Impact Assessment prepared by Acoustic Logic (**Attachment A**); and
- Updated Ribbon Hotel Plan of Management (**Attachment B**).

## **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 (The Ribbon) and separate 2 storey building (the SHFA 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, fourteen Modification Applications to the SSD 7388 consent have been lodged. Three have been withdrawn, ten have been approved, and one is under active assessment. These are summarised as follows:

- SSD 7388 MODs 1 and 2, which sought to modify the staging of conditions of consent. These applications were withdrawn prior to determination.

- SSD 7388 MOD 3 sought a range of design changes to the podium and internal spaces. This application was approved by DPIE on 2 November 2017.
- SSD 7388 MOD 4 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 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 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, in addition to extended construction hours. MOD 6 was approved by DPIE on 19 December 2018.
- SSD 7388 MOD 7 sought modifications to facilitate an open roof above the hotel pool facilities at Levels 22 and 23 of The Ribbon building (see **Section 1.1.1**). This application was approved by DPIE on 12 August 2019.
- SSD 7388 MOD 8 sought minor internal changes to the IMAX Cinema portion of the building. 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 11 sought consent for a reduction in the number of the visitor bicycle parking spaces provided by The Ribbon development from 176 to 120 to disperse bicycle parking more holistically across Darling Harbour. This application was approved by DPIE on 28 May 2021.
- SSD 7388 MOD 12 sought consent for the replacement of the previously approved 'City Screen' with a static LED sign. The application was granted consent by DPIE on 14 May 2021.
- SSD 7388 MOD 13 sought a number of amendments to the design of the approved SHFA building. The application was approved by DPIE on 11 June 2021.
- SSD 7388 MOD 14 is seeking consent for minor amendments to the building's ground and first floors to rationalise design and improve service access. It is currently under assessment. As it relates to different components of The Ribbon project than the subject application, it can be assessed concurrently.

### 1.1.1 SSD 7388 MOD 7

Of particular relevance to this Modification Application is MOD 7, which was approved by DPIE on 12 August 2019 for the following works:

- the provision of the 'open roof' above the pool area at level 22; and
- the installation of sensors at the pool level to ensure safe air quality standards at all times.

With the approval of MOD 7, conditions F9(1), F15 and F16<sup>1</sup> were introduced into the SSD 7388 conditions of consent to manage the operation of this new 'open roof' area.

## 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.

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<sup>1</sup> Although currently numbered F15 and F16, these conditions were known as F12 and F13 when first introduced into the SSD 7388 conditions of consent under MOD 7.

## 2.0 Proposed modifications to the consent

This Modification Application seeks consent for the following:

- Condition F9(1): Amendments to the maximum sound pressure levels.
- Condition F15: Amendments to the swimming pool and bar area standard hours of operation for Saturday and Sunday mornings (Friday and Saturday nights).
- Condition F16: Update wording to reflect latest Noise Impact Assessment.

They are described in further detail below. Words proposed to be deleted are shown in ~~bold strike through~~ and words to be inserted are shown in **bold italics**.

### 2.1 Condition F9(1)

It is proposed to modify the wording of condition F9(1) as follows:

*F9(1) All speakers within the level 22 and 23 swimming pool and bar area are to be located within covered areas and limited to the following maximum sound pressure levels:*

- (a) *Between 7am and Midnight: ~~80~~ **90** dB(A) L10 when measured at 3m distance from speakers*
- (b) *Between Midnight and 7am: ~~65~~ **80** dB(A) L10 when measured at 3m distance from speakers.*

**Justification:** The updated Noise Impact Assessment at **Attachment A** demonstrates that the revised maximum sound pressure levels can be emitted from speakers within the 'open roof' swimming pool and bar area without resulting in unreasonable impacts on surrounding sensitive receivers. The revised sound levels will result in a more enjoyable experience and meet patron expectations for a rooftop bar in Darling Harbour which is an established entertainment precinct.

### 2.2 Condition F15

It is proposed to modify the wording of condition F15 as follows:

*F15. Use of the level 22 and 23 swimming pool and bar area is restricted to hotel guests only after **2am on Saturday and Sunday mornings** or ~~and~~ **midnight on all other days**, and total patron numbers restricted as follows:*

- (a) *Between 7am and **2am (Saturday and Sunday mornings) or midnight (all other days)**: not exceeding 300 patrons at any one time.*
- (b) *Between **2am (Saturday and Sunday mornings) or midnight (all other days)** and 7am: not exceeding 200 patrons at any one time.*

**Justification:** Under MOD 15, it is proposed to extend the standard opening hours of the 'open roof' area from midnight to 2am Saturday and Sunday mornings (i.e., Friday and Saturday nights) in line with patron expectations for a rooftop bar in Darling Harbour. The premises will continue to be supervised by staff during the extended opening hours. It is proposed to adjust the restriction on guests and patron numbers to reflect the extended hours. The Noise Impact Assessment (**Attachment A**) confirms the new hours will not generate adverse noise impacts. The Ribbon Hotel Plan of Management has been updated to reflect these new hours (**Attachment B**).

### 2.3 Condition F16

It is proposed to modify the wording of condition F16 as follows:

*F16. Noise levels at levels 22 and 23 shall be managed in accordance with the recommendations of the Noise Impact Assessment prepared by Acoustic Logic and dated ~~15 May 2019~~ **18 November 2021**.*

**Justification:** To reflect updated Noise Impact Assessment prepared by Acoustic Logic at **Attachment A**.

### 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 as:

- The proposed changes are to conditions of consent only and do not alter the physical form of The Ribbon project in any way;
- The proposed changes do not change the fundamental operation of any aspect of The Ribbon building; and
- The proposed changes will not generate unreasonable environmental impacts as evidenced below.

### 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

As the proposed modification relates to minor modifications to operational conditions of consent only and does not result in any physical changes to the SSD 7388 approval, the development’s consistency with the relevant Environmental Planning Instruments remain unchanged.

#### 4.2 Acoustic Impact and Residential Amenity

The Noise Impact Assessment prepared by Acoustic Logic at **Attachment A** demonstrates that the proposed amendments to the operation of the rooftop area will not generate any adverse noise impacts to surrounding dwellings. It also notes that the proposed operation of the rooftop area is consistent with the Liquor & Gaming NSW Standard Noise Conditions, which are frequently utilised by the City of Sydney for comparable entertainment venues in the Sydney CBD.

#### 4.3 Site Suitability and Public Interest

The proposed changes are suitable for the site and in the public interest, as:

- The Noise Impact Assessment (**Attachment A**) demonstrates that the revised operational arrangements of the rooftop area will not generate unreasonable noise impacts to dwellings in the surrounding area.
- The Noise Impact Assessment demonstrates that the proposed amendments are consistent with acoustic criteria for comparable venues in the City of Sydney (including other rooftop bars), through consistency with the Liquor & Gaming NSW Standard Noise Conditions.
- Being located in Darling Harbour, future patrons will expect a reasonable level of noise to be emitted from the venue speakers (as consistent with other comparable venues). The proposed modification allows for these expectations to be met, to help provide a more enjoyable experience for all public users, while effectively managing noise in accordance with the Noise Impact Assessment. The amendments will contribute towards the ongoing development of Darling Harbour as Sydney’s premier entertainment district, during both day and night.

## 5.0 Conclusion

This Modification Application aims to amend conditions of consent F9(1) and F15 relating to the level 22-23 'open roof' swimming pool and bar area to deliver a more enjoyable patron experience without generating unreasonable environmental impacts.

Specifically, consent is sought for the following:

- Condition F9(1): Amendments to the maximum sound pressure levels.
- Condition F15: Amendments to the swimming pool and bar area standard hours of operation for Saturday and Sunday mornings (Friday and Saturday nights).
- Condition F16: Update wording to reflect latest Noise Impact Assessment.

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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