



9 May 2019

Department of Planning & Environment
320 Pitt Street,
Sydney NSW 2000

Attention: Rodger Roppolo, Planning Officer

Dear Rodger,

SSD 7014 Modification 5 – Response to Submissions
161 Sussex Street, Sydney

This Response to Submissions has been prepared by GL Investment Co Pty Ltd ATF GL No.1 Trust (GL Investment Co), in relation to the Section 4.55(2) to Development Consent SSD 7014, which relates to the Hyatt Regency's Zephyr Bar located at level 12, 161 Sussex Street, Sydney.

This Section 4.55(2), known as MOD 5, was publicly exhibited between 3 April 2019 and 17 April 2019 and received one public submission and agency submissions from the City of Sydney Council and the Office Liquor & Gaming NSW. It is noted that the Department of Planning & Environment (the Department) advised that the application was referred to the NSW Police and a response has not been received.

Agency and Council Submissions

This section provides the issues raised in the agency submissions and GL Investment Co's response.

Issue Raised	Proponent's Response
City of Sydney Council	
It is assumed that you are separately seeking comments from the NSW Police and the Office of Liquor, Gaming and Racing regarding the performance of the venue.	Noted, the Department referred the application to the NSW Police and the Office of Liquor, Gaming and Racing.
The City recommends that the assessment of the modification include an assessment of the performance of the venue, compliance with the BCA, cumulative acoustic impacts and compliance with noise conditions and the management of the patrons.	The originally submitted lodgement package included an assessment of the performance of the venue, compliance with the BCA (Attachment D) and noise impact assessment (Attachment F). The BCA assessment confirms that the premises is capable of accommodating the increased capacity of 260 in accordance with the BCA. The additional acoustic assessment confirms that the increase in capacity will not exceed the noise criteria in the conditions of the consent for the Bar.
Office of Liquor & Gaming NSW	
We do not intend to provide comments on this application.	Noted.

Public Submission

This section provides the issues raised in the sole general public submission from David Osbourne and the GL Investment Co's response.



Issue Raised	Proponent's Response
David Osbourne David Osbourne refers to "noise emanating from bars" in particular <i>"music played in the bars reverberates through our apartment"</i> at night. He also notes that noise from patrons exiting the premises at night is a growing nuisance. The submission discusses at length his objection to a proposed bar at 140 Sussex Street.	The references to noise issues are general and no specific examples have been provided demonstrating that the bars at 161 Sussex Street are responsible for the issues raised. The 140 Sussex Street proposal is unrelated to our premises at 161 Sussex Street and not relevant to our proposed Modification 5. The comprehensive complaints management process required by Condition F10 has been in operation since the bar opened in 2016 and there have been <u>no submissions to date</u> . The Modification 5 lodgement package demonstrated that the bar complies with all conditions of development consent SSD 7014 including all conditions relating to noise as addressed in the Noise Impact Assessment included at Attachment F

Conclusion

GL Investment Co has considered all the submissions received in response to the public exhibition of the proposal and provided the above responses. We do not consider that the submissions necessitate any amendments to the originally submitted documentation or the conditions that we are seeking to modify.

The exhibited S4.55(2) assessed the potential impacts of the proposed amendments to Development Consent 7014. In summary, the information submitted as part of the Modification 5 lodgement package demonstrates that Zephyr Bar is currently operating in accordance with all requirements, and that this compliance will be maintained with the proposed minor capacity increase to a total 260 persons. As is established, the proposed modification is of minimal environmental impact, is suitable for the site, and is in the public interest.

We trust that the information detailed in this letter is sufficient to enable the Department to finalise the assessment of SSD 7014 Modification 5. Should you have any queries in relation to this response, please do not hesitate to contact me on (02) 9223 0350 or at jenny@mandlinvestments.com.sg

Sincerely,

Jenny Watt
Development Manager
GL Investment Co

Att: Submissions



Mon 29/04/2019 9:09 AM

Shannon Rickersey <SRickersey@cityofsydney.nsw.gov.au>

SSD 7014 MOD 5 - Zephyr Bar

To Rodger Roppolo

Hello Rodger,

I refer to your correspondence to Council dated 11 April 2019.

It is assumed that you are separately seeking comments from the NSW Police and the Office of Liquor, Gaming and Racing regarding the performance of the venue.

The City recommends that the assessment of the modification include an assessment of the performance of the venue, compliance with the BCA, cumulative acoustic impacts and compliance with noise conditions, and the management of patrons.

Regards,

Shannon Rickersey

Planning Assessments



Telephone: +612 9265 9677

cityofsydney.nsw.gov.au



Tue 30/04/2019 12:16 PM

Peter Wicks <peter.wicks@liquorandgaming.nsw.gov.au>

RE: Request for Comments on Hyatt Regency's Zephyr Bar Modification Application

To  Rodger Roppolo

 Follow up. Completed on Tuesday, 30 April 2019.

Hi Rodger

We do not intend to provide comments on this application.

Regards

Peter Wicks | Manager, Licensing

Liquor & Gaming NSW | NSW Department of Industry
Level 6 | 323 Castlereagh Street | Haymarket NSW 2000
GPO Box 7060 | Sydney NSW 2001

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Objects

David Osborne

SYDNEY, New South Wales

Message

I live across the rooftop from the hotel and am subjected to any noise emanating from the bars as my unit is to all intents and purposes level with them. On Saturday nights especially, the bass sounds from the music played in the bars reverberates through our apartment as if through an amplifier. The noise grows louder after midnight and seems to grow louder every weekend, preventing sleep. The noise from patrons exiting the premises is also a growing nuisance. In addition, the premises at 140 Sussex Street directly below my windows are being prepared for a rooftop, unshielded bar to serve over 200 patrons up to midnight. If the modification application is approved this will mean over 460 drinkers socialising in a very small space, together with their entertainment, destroying any chance of us peacefully using and enjoying our property and slashing the value of our property by an enormous amount. I believe the same disaster will affect owners and residents in the three other residential towers around us. I ask you to please reject the modification proposal and ask the Hyatt management to ensure that the bars comply with their development consent order of 26 February 2016 which I quote below:

"Operational noise

Concerns were raised in submissions and at the public meeting regarding potential operational noise impacts on nearby residences, particularly from the proposed rooftop bar and also in relation to cumulative noise impacts.

The Noise Impact Assessment in the EIS concluded that the proposal would comply with the relevant standards and guidelines, and would have no adverse noise impacts at the nearest affected receivers. The EIS also states that the level 11 executive lounge would be acoustically treated to prevent noise breakouts while the level 12 rooftop bar would be predominantly oriented to the west which faces onto Darling Harbour and Cockle Bay. In addition, the music in both the executive lounge and rooftop would be limited to amplified music (i.e. no live music or DJ music).

The Commission notes that the Department has recommended several conditions of consent (F21, 22, 23, 24 and 25 of Schedule 2) that establish appropriate noise levels for nearby residential receivers during the operation of the proposed executive lounge and rooftop bar, including a requirement that noise must not be audible within any habitable room in any residential use between the hours of midnight and 7am. There is also a recommended condition requiring an Acoustic Verification Certificate to be prepared by a suitably qualified acoustic consultant prior to the issue of an Occupation Certificate, which must demonstrate that the proposed development is capable of complying with the noise levels in the conditions.

While the Commission is generally satisfied that the operational noise levels in the recommended conditions can be met, it believes that the proposed level 12 rooftop bar should be subject to a 12 month trial period to ensure that noise levels are maintained at acceptable levels during operation. The Commission notes that this is standard practice for similar development applications overseen by the City of Sydney Council, as outlined in its Late Night Trading Premises Development Control Plan 2007.

Consequently, the Commission has inserted an additional condition of consent (A6) that permits 24 hour operation of the proposed level 12 rooftop bar for a trial period of 12 months from the date of occupation. After the trial period, the approved hours of operation will change to 7am to midnight, Monday to Sunday, unless otherwise approved by a modification application."

The Department of Planning and Environment acknowledges the Traditional Custodians of the land and pays respect to all Elders past, present and future.

Department of Planning & Environment

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