



**MODIFICATION REQUEST:
STAR CITY CASINO
Lot 500 IN DP 1161507
(MP08_0098 MOD 11)**

Request to amend Condition F1 'Noise' to permit the use of speakers for the playback of background music and DJ/live band/amplified events on the Level 3 pool deck of the Darling Hotel.



Director-General's
Environmental Assessment Report
Section 75W of the
Environmental Planning and Assessment Act 1979

October 2012

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1. BACKGROUND

The subject site is located on the western side of Darling Harbour and is bound by Edward Street, Pyrmont Street, Union Street, Pirrama Road and Jones Bay Road, Pyrmont (see Figure 1). The site is irregular in shape and has a total area of 39,206 m². It comprises Star Casino (formerly the Star City Casino) and the recently completed Darling Hotel.

The proposed modification relates to the 'Darling Pool Terrace' which is part of the Darling Hotel and located 3 to 4 storeys above Pyrmont Street. The existing approval provides for 300 patrons and 24 hour usage.

The pool terrace is partially screened by the Darling Hotel tower to the south, the existing hotel and apartment towers to the north-west and the Lyric Theatre to the north.

The immediate locality is varied in terms of land use mix, built form and character. To the north of the pool terrace is the Astral Residences serviced apartment building. To the east is mixed use retail and commercial uses with 5 and 9 storey office buildings on the opposite side of Edward Street, and a 3 storey office building and heritage listed pub on Union Street. To the south is the Darling Hotel and Casino and to the west is a mix of heritage buildings and terrace houses.

The subject site is within the City of Sydney local government area.



Figure 1: Site Location and Subject Site

Approval History

On 9th December 1994, the Minister approved a development application (33/94) for a permanent casino and entertainment complex including a hotel, serviced apartments, theatres, restaurants, bars, car parking and associated facilities. On 27 January 2009, approval was granted under Part 3A (MP08_0098) for 'Alterations and Additions to Casino Complex and Hotel Development on the Switching Station site'.

The Major Project (MP08_0098) has subsequently been modified 10 times and includes the following:

Modification Number	Approval Date	Approved Modifications
1	3 March 2009	Modifications to conditions A6 and B1 to provide clarity on what constitutes external artwork, lighting and signage, and alterations to the timing of compliance requirements for a number of conditions.
2	25 March 2009	Modification of Condition B2 to clarify the approved hotel height, and exclude lift overruns from the height limit.
3	6 April 2009	Modification of Condition B4 to allow a staged agreement process between the Sydney Metro Authority and the proponent for excavation within the vicinity of the rail tunnel easement.
4	1 December 2009	Modifications to the façade design, consolidation of the porte coheres, reconfiguration of the entry stairs, consolidation of the entry water features to a single water feature, relocation of the gaming entry point, and a 682 m ² extension to the entertainment deck.
5	20 July 2010	Modifications to Conditions A2, A3 and D11 to alter the general project arrangement, reference the revised BCA capability statement, and extend the hours of construction to 3:00 pm on Saturdays.
6	9 September 2009	Approved the deletion of level 13 of the hotel, and increased the floor to ceiling heights on levels 11 and 12 of the hotel. The application also reduced the number of suites on levels 6 to 12 of the hotel from 14 to 7 on each floor, resulting in an overall reduction in the total number of hotel suites from 252 to 173.
7	29 July 2011	Approved the construction of the MUEF on the level 4 roof top terrace area.
8	17 November 2010	Partial enclosure of the existing outdoor terrace adjoining the Sovereign Room on level 3.
9	13 October 2011	Relocation of the night club to the southern end of level two and relocation of the restaurant to the northern end of level 2.
10	16 December 2011	To change the cladding material on the façade of the MUEF from profiled stainless steel sheeting, as approved under MP 08_0098 MOD 7, to starfire glass.

2. PROPOSED MODIFICATION

2.1 Modification Description

The proposal seeks to install and operate music speakers at the pool terrace on Level 3 of the Darling Hotel for playback of background music and DJ/live/band/amplified music events.

The proposed sound system includes:

- Twelve Meyer Sound Miniature speakers (MM-4XP) that are independently controlled and mounted at a height of approximately 3m from floor level around the pool terrace; and two subwoofers under a pergola structure to be used for playback of background music;
- An Extended Level Integrated Active System (ELIAS) consisting of two speakers for DJ/live band/amplified music event. The twelve MM-EXP and subwoofer system will only be used

for announcements of no longer than 1 minute in any 15 minute period during these types of performances.

Figure 2 shows the proposed location of the DJ, subwoofers and speakers.

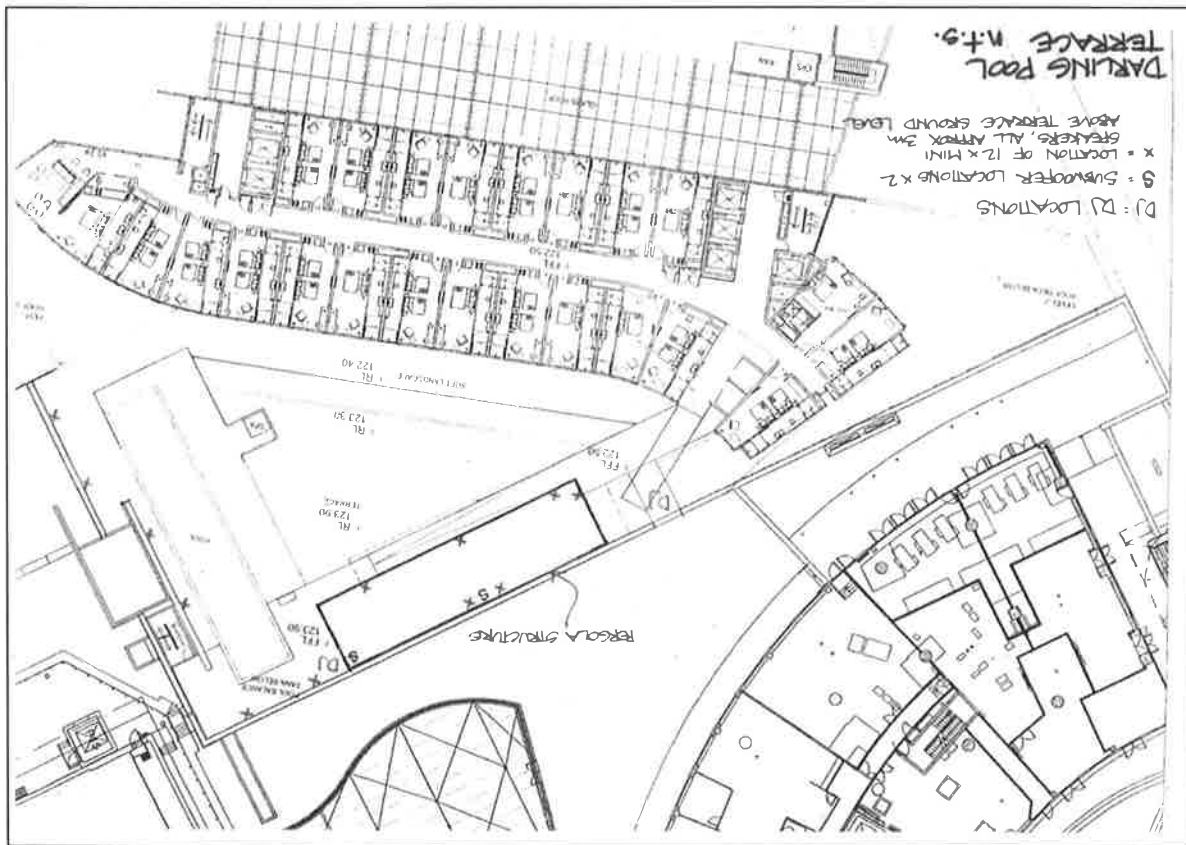


Figure 2: Location of DJ, Speakers and Subwoofers

The modification will require the rewording of Condition F1 - No Speakers or Outside Music as it currently prohibits 24 hour music, DJ/live band/amplified music events.

3. STATUTORY CONTEXT

3.1 Modification of the Minister's Approval

The modification application was lodged with the Director-General pursuant to Section 75W of the Act, which provides for the modification of a Minister's approval including 'revoking or varying a condition of the approval or imposing an additional condition of the approval'.

In accordance with clause 3 of Schedule 6A of the EP&A Act, section 75W of the Act as in force immediately before its repeal on 1 October 2011 and as modified by Schedule 6A, continues to apply to transitional Part 3A projects.

3.2 Delegated Authority

On 14 September 2011, the Minister delegated his powers and functions under section 75W of the EP&A Act to the Deputy Director-General, Development Assessment and Systems Performance in cases where political disclosure statement in relation to a previous related application, where less than 10 objections were received and where Council has not objected.

A political disclosure statement in regards to the original project application has been made, one public submission was received and Council does not object. Accordingly the Deputy Director-General, Development Assessment and Systems Performance, may exercise his delegations.

4. CONSULTATION AND SUBMISSIONS

4.1 Exhibition

In accordance with Section 75X (2) (f) of the EP&A Act, the Director-General is required to make the modification request publicly available. The modification request was made available on the Department's website and was referred to the City of Sydney Council and the NSW Casino, Liquor and Gaming Authority. Local landowners were also notified of the proposal.

Council Comment

On 29 February 2012, Council raised some concerns regarding the proponent's assessment of the proposed modification (**Appendix B**). The proponent provided a response to Council's concerns and updated its Noise Emission Assessment. Council was provided a copy for review and comment.

On 23 August 2012, Council advised that their concerns relating to noise had been satisfactorily addressed and recommended some additional conditions of consent which have been included to the modifying instrument. In general Council request the following:

- the music system and speakers be in accordance with the amended acoustic report;
- an independent verification of compliance with noise levels be provided within 90 days of the proposed use commencing;
- noise limiters to amplification equipment; and
- additional conditions to restrict capacity, use of amplified music and DJs, announcements and to require compliance with the plan of management.

The recommended conditions address Council's comments.

Public Submission

The Department received one public submission in relation to the proposal. The issues raised were:

- possibility of the venue becoming a night club and associated adverse impacts;
- behaviour of patrons leaving the venue intoxicated and generating noise;
- music/DJ noise from the venue especially sound vibrations from venue going around the hotel tower and affecting submitter's property; and
- no letter of notification to the proposal.

The Department is satisfied that these issues can be resolved through specific terms of approval. These are discussed in detail below.

5. ASSESSMENT

The Department considers the key issue for the proposed modification is noise.

Noise Impacts

The noise criteria for the subject site are specified in condition **F5 Noise** of the Department's approval. Condition F5 Noise states that the use must not result in the transmission of 'offensive noise', shall not exceed the 'daytime' background noise level (L90) by more than 5dB, shall not exceed the 'night-time' background noise level (L90) at all, shall not be audible in any residential property during the 'night-time' period and must not exceed the background noise level (L90) by more than 3dBA within any commercial property.

In order for noise generated by the use of the pool terrace to be inaudible at any noise sensitive receivers during the night time period, it should be 15dB less than the existing background noise level in every octave band when measured external to the facade at those sensitive receivers. Noise from the pool terrace, when measured at residential receivers in Pyrmont Street should be no greater than the inaudibility criteria presented in Table 1.

Table 1: Existing background noise levels and inaudibility criteria applicable to receivers in Pyrmont Street

Period	L10 Sound Level, dB at Octave Band Centre Frequency, Hz									Overall LA10, dB(A)
	32	63	125	250	500	1k	2k	4k	8k	
	Existing background noise level (External)									
Night-time (12midnight - 7.00am)	57	55	57	47	44	44	40	32	28	49
Inaudibility criteria (External)										
Night-time (12midnight - 7.00am)	42	40	42	32	29	29	25	17	13	34

Condition F5 refers to the indoor environment of any commercial receiver. AECOM advised that given the residential receiver criteria are the most stringent, compliance with the residential receiver will ensure compliance with the commercial criteria. In this regard, AECOM's assessment is based on the residential receiver criteria.

Noise Emission Assessment

AECOM conducted a desktop assessment of the likely noise impact from the proposed use of the external pool deck of the Darling Hotel. The Noise Emission Assessment is based on the following scenarios to ensure that noise emissions meet the applicable noise criteria under Condition F5.

Scenario 1a – Playback of background music using the pool terrace sound system (excluding the ELIAS system) in the 'Daytime' period with up to 300 patrons. The 'Daytime' period extends from 7.00am to 12 midnight.

Scenario 1b – Playback of background music using the pool terrace sound system (excluding the ELIAS system) in the 'Night-time' period with up to 200 patrons. The 'Night time' period extends from 12 midnight to 7.00am.

(Note: no more than 200 patrons in the night-time period permitted on the pool deck)

Scenario 2 – Music from DJ/live band/amplified music events (excluding ELIAS system) in the 'Daytime' period with up to 300 patrons. The 'Daytime' period extends from 7.00am to 12 midnight.

(Note: no DJ/live band/amplified music events during the midnight to 7.00am night-time period)

Scenario 3 – DJ/live band/amplified music events using the ELIAS system and the pool terrace sound system (for occasional announcements only) in the 'Daytime' period with up to 300 patrons. The 'Daytime' period extends from 7.00am to 12 midnight.

(Note: the ELIAS will not be used during the night-time periods unless in the event of an emergency)

Assessment Results

The results of the assessment indicate that noise levels emitted during Scenarios 1a and 1b will comply with Condition F5 providing that the maximum allowable speaker output of 82 dB(A) and 77 dB(A) measured at a distance of 1m is applied for the 'Daytime' and 'Night-time' periods respectively.

The noise level emitted during Scenario 2 with respect to the nearest residential receivers will comply with Condition F5 provided a maximum allowable speaker output of 106 dB(A) measured at a distance of 1m is applied for the 'Daytime' period.

The noise level emitted during Scenario 3 with respect to DJ/live band/amplified music events using the ELIAS system in the 'Daytime' period, will comply with Condition F5 providing that the maximum allowable speaker outputs of 105 dB(A) and 121 dB(A) measured at a distance of 1m is applied to the pool terrace surround system and to the ELIAS system respectively.

Department's comment

The immediate locality is varied in terms of land use mix and includes residential and commercial uses. Amending Condition F1 to permit speakers on the Level 3 pool deck should have a minimal impact on these uses. Existing condition F5 Noise of MP08_0098 and the approved Project Star Acoustic Specification – Project Star New Hotel dated 12 December 2008 set the noise criteria for the nearest commercial and residential receivers along Pyrmont Street. It is considered that the installation of speakers for the playback of music and entertainment events should comply with these criteria to have a negligible impact on the nearest receivers.

The Department has reviewed the Noise Emission Assessment prepared by AECOM and is satisfied that the playback of background music or DJ/live band/amplified events can operate within the relevant noise criteria. Condition F5 Noise states that the use must not result in the transmission of 'offensive noise', shall not exceed the 'daytime' background noise level (L90) by more than 5dB, shall not exceed the 'night-time' background noise level (L90) at all, shall not be audible in any residential property during the 'night-time' period and must not exceed the background noise level (L90) by more than 3dBA within any commercial property. The Department considers that the existing Condition F5 Noise is sufficient to address the noise impacts relating to the proposed use of speakers and entertainment events.

To ensure that the noise levels do not exceed the target Condition F5 noise criteria, it is proposed to use 12 Meyer Sound Miniature speakers (MM-4XP), which have been selected specifically to minimise environmental noise as each speaker can be independently controlled. The speakers have been located as far away from the western boundary as possible and the subwoofers are located at ground level to ensure the maximum protection to the nearby receivers. Council has requested that Noise Limiter devices be installed on the Meyer speaker systems that are tamper proof and only operable by the acoustic consultant. The Department supports this recommendation and has included an additional condition (**Condition F1b**) to ensure the target noise level is not exceeded.

While the Department considers that the proposal can operate within the relevant noise criteria, it is noted that there are a number of additional management practices that should occur to ensure compliance. These are as follows:

- the number of patrons permitted on the pool deck during the night-time period (midnight to 7.00am) is to be limited to 200;

- no DJ/live band/amplified events are to be conducted during the night-time period;
- the ELIAS system is not to be used during the night-time period; and
- no announcements are to be made, apart from emergencies, during the night-time period.

The proponent has provided an Operational Noise Management Plan (ONMP), which identifies the above management practices, along with others, to assist in reducing the noise impacts on surrounding properties and to ensure compliance with the relevant criteria. The Department supports the ONMP and has included it into the condition F1 of the modifying instrument to ensure the practices are undertaken.

Council has also requested that an additional condition be included to monitor the performance of the speakers and the entertainment events. The Department supports this and has included an additional condition (F1b) to ensure that within the first 90 days an acoustic consultant monitor the noise in accordance with Condition F5. Should the use of the speakers and live entertainment not comply with the target criteria, the proponent will be required to undertake any measures indicated by the acoustic consultant. Should the acoustic consultant's measures not be undertaken the premises must not be used for music and live entertainment until such time as the appropriate measures are implemented.

The ONMP also requires the proponent to operate a noise handling procedure (as required by the Casino Control Regulation (2009)). However, should the Department or Council receive a noise complaint that is substantiated, the proponent will be required to cease the use of the music and entertainment until such time as the noise emissions can comply with the target noise levels. Condition F1c has been included to ensure compliance with the handling of noise complaints.

Based on the above, the Department is satisfied that the impacts of noise can be mitigated and undertaken in accordance with the existing noise criteria for MP08_0098, subject to imposed conditions.

6. CONCLUSION AND RECOMMENDATIONS

The Department has assessed the application on its merits and the proposed modification is considered to be reasonable and will not result in any significant changes to the development as approved.

It is therefore recommended that, subject to the amended conditions, the proposed modification be approved.

It is **RECOMMENDED** that the Deputy Director-General, Development Assessment and Systems Performance, as delegate for the Minister for Planning and Infrastructure:

- **note** the information provided in this report;
- **approve** the modification request, subject to conditions; and
- **sign** the attached modifying instrument.

Endorsed by:



Jodie Leeds
Planning Officer
Metropolitan & Regional Projects South



Karen Jones
Director
Metropolitan & Regional Projects South

Approved by:



David Kitto
A/ Executive Director
Major Projects Assessment

APPENDIX A MODIFICATION REQUEST

See the Department's website at www.majorprojects.planning.nsw.gov.au

APPENDIX B SUBMISSIONS

See the Department's website at www.majorprojects.planning.nsw.gov.au

APPENDIX C RECOMMENDED MODIFYING INSTRUMENT
