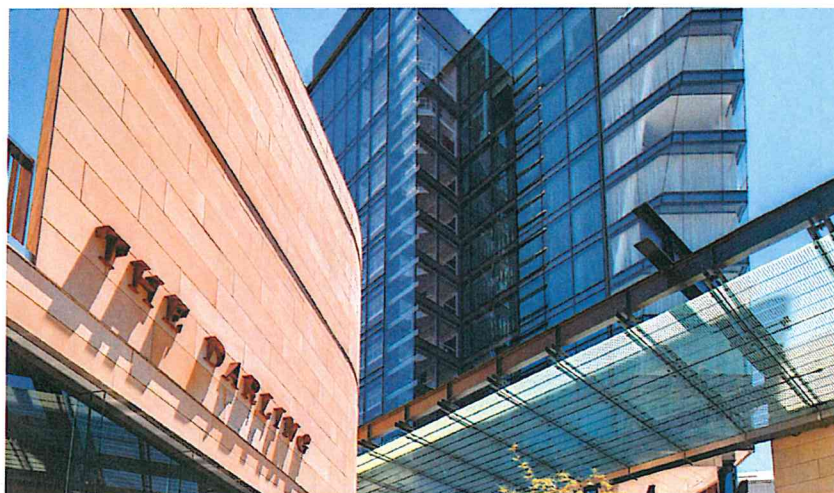


**MODIFICATION REQUEST:
Star City Casino, Pyrmont
MP 08_0092 MOD 12**

- ***Installation and permanent use of speakers at the Level 3 Pirrama Road Entertainment Deck and Level 1 Pirrama Road Outdoor Gaming Areas; and***
- ***Permanent 24-hour use of the Level 1 Pirrama Road Outdoor Gaming Areas.***



Secretary's Environmental Assessment Report
Section 75W of the
Environmental Planning and Assessment Act 1979

October 2014

© Crown copyright 2014
Published October 2014
NSW Department of Planning and Environment
www.planning.nsw.gov.au

Disclaimer:

While every reasonable effort has been made to ensure that this document is correct at the time of publication, the State of New South Wales, its agents and employees, disclaim any and all liability to any person in respect of anything or the consequences of anything done or omitted to be done in reliance upon the whole or any part of this document

1. BACKGROUND

1.1 Introduction

This report provides an assessment of a section 75W modification application lodged by Echo Entertainment Group Limited (the Proponent), seeking to modify the project approval (MP 08_0098) for major alterations and additions to the Star City Hotel at Pyrmont. The modification (MOD 12) seeks approval to install and permanently use speakers at the Level 3 Pirrama Road Entertainment Deck and Level 1 Pirrama Road outdoor gaming areas (OGAs) and permanent 24-hour use of the Level 1 Pirrama Road OGAs (currently permitted between 7.00 am and 12.00 midnight).

1.2 The Site

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 (**Figure 1**). The site is located within the City of Sydney local government area.

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 Darling Hotel (**Figure 1**).

The proposed modification relates the Level 1 Pirrama Road OGAs and Level 3 Pirrama Road Entertainment Deck. The approximate location of these areas is depicted in **Figure 2** and **Figure 3**.

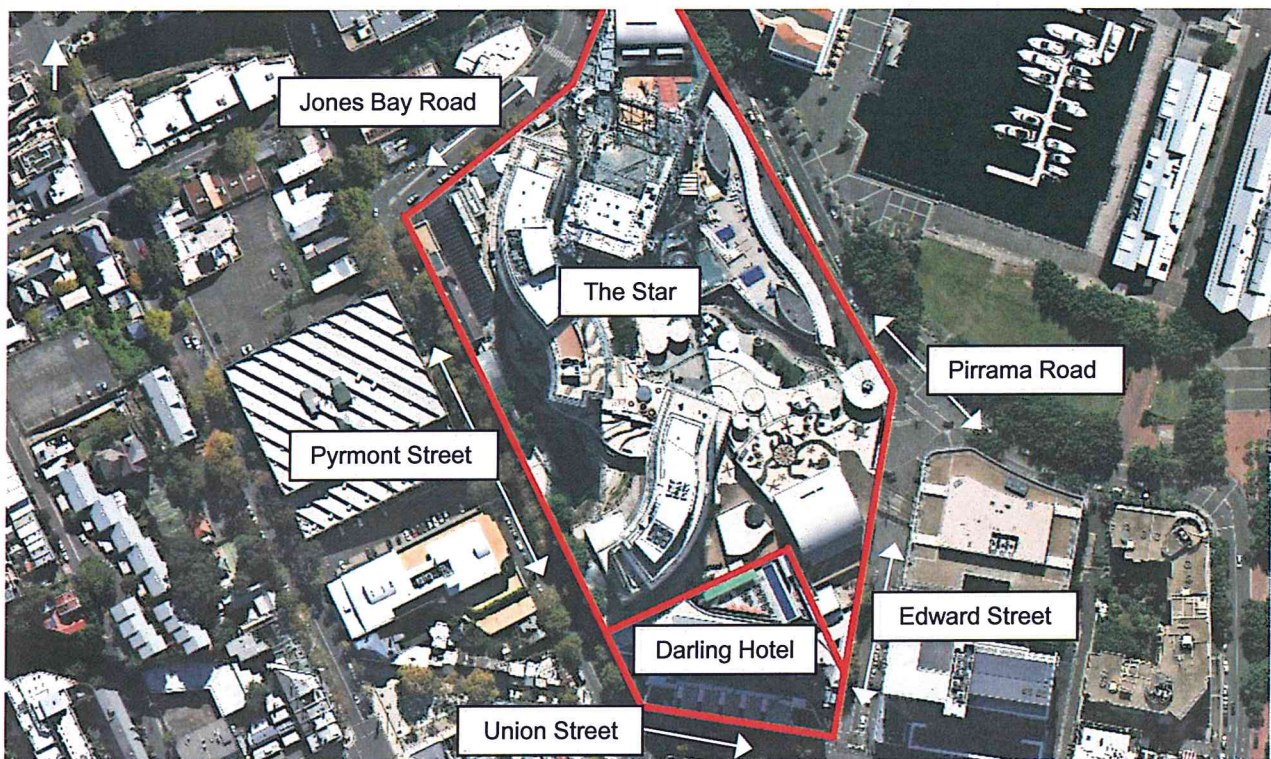


Figure 1: Aerial overview of Star City Casino

The Darling Pool Terrace is located to the south adjacent to the Union and Edward Street frontages.

The immediate locality is varied in terms of land use mix, built form and character. Key features of the immediate and broader locality include:

- mixed use retail and commercial uses (office) on the opposite side of Edward Street to the south-east;

- a mix of low scale office buildings, heritage listed pubs and terrace buildings fronting Union Street to the south; and
- low scale residential buildings within ground level retail/commercial uses fronting Pyrmont and Union Street to the south and west.

Darling Harbour and the Sydney CBD are located to the east within walking distance of the site.

The closest residents to the Level 3 Pirrama Road Entertainment Deck are located approximately 110 metres (m) to the north-west at 2 Jones Bay Road, Pyrmont (**Figure 2**). The closest residents to the Level 1 Pirrama Road OGAs are located approximately 215 m to the north-east at Sydney Wharf No. 9 (**Figure 3**).

1.3 Approval History

On 9 December 1994, the then Minister for Planning approved a development application (DA No. 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, the then Minister for Planning approved a Part 3A major project application (MP 08_0098) for alterations and additions to Star City Casino and Entertainment Complex and the Darling Hotel Development on the switching station site (**Figure 1**).

Since 2009, the Part 3A approval has been modified eleven (11) times, see **Appendix C**.

The casino and entertainment complex (now known as 'the Star') has a variety of outdoor entertainment areas including the Level 1 Pirrama Road OGAs, the Level 3 Pirrama Road Entertainment Deck (**Figure 2** and **Figure 3**) and the Level 3 Darling Pool Terrace. These areas have been designed for the convenience of gaming patrons (e.g. those who smoke) and for holding functions and special events which require the playback of music.

Despite this, under the current Part 3A approval (MP 08_0098), the playback of music and making of public address (PA) announcements in most of these areas is not permitted. Further, the hours of operation of the OGAs are currently restricted to between 7am and 12 midnight which is not consistent with the operational hours for other gaming areas of the Star.

2. PROPOSED MODIFICATION

2.1 Modification Description

Echo Entertainment Group Limited (the Proponent) has lodged a section 75W application seeking approval to modify the Star's Part 3A approval to allow:

- the installation and permanent use of speakers for playing music at the Level 3 Pirrama Road Entertainment Deck (Condition F1);
- the installation and permanent use of speakers for playing background music and making public address (PA) announcements at the Level 1 Pirrama Road OGAs (Condition F1); and
- the permanent 24-hour use of the Level 1 Pirrama Road OGAs (Condition F3).

The location of the areas of the Star that are the subject of the modification application are depicted in **Figure 2** and **Figure 3** below.

2.2 Justification for Modification

The Proponent has advised that the proposed modifications are sought to:

- allow the delivery of live and recorded music through speakers at the Level 3 Pirrama Road Entertainment Deck to accommodate events, private and corporate functions;
- allow the delivery of background music and public address (PA) announcements at the OGAs for the amenity and convenience of patrons; and
- allow 24-hour use of the OGAs for the convenience of patrons consistent with other gaming areas of the Star.



Figure 2: Aerial overview of the Star City Casino Level 3 Pirrama Road Entertainment Deck

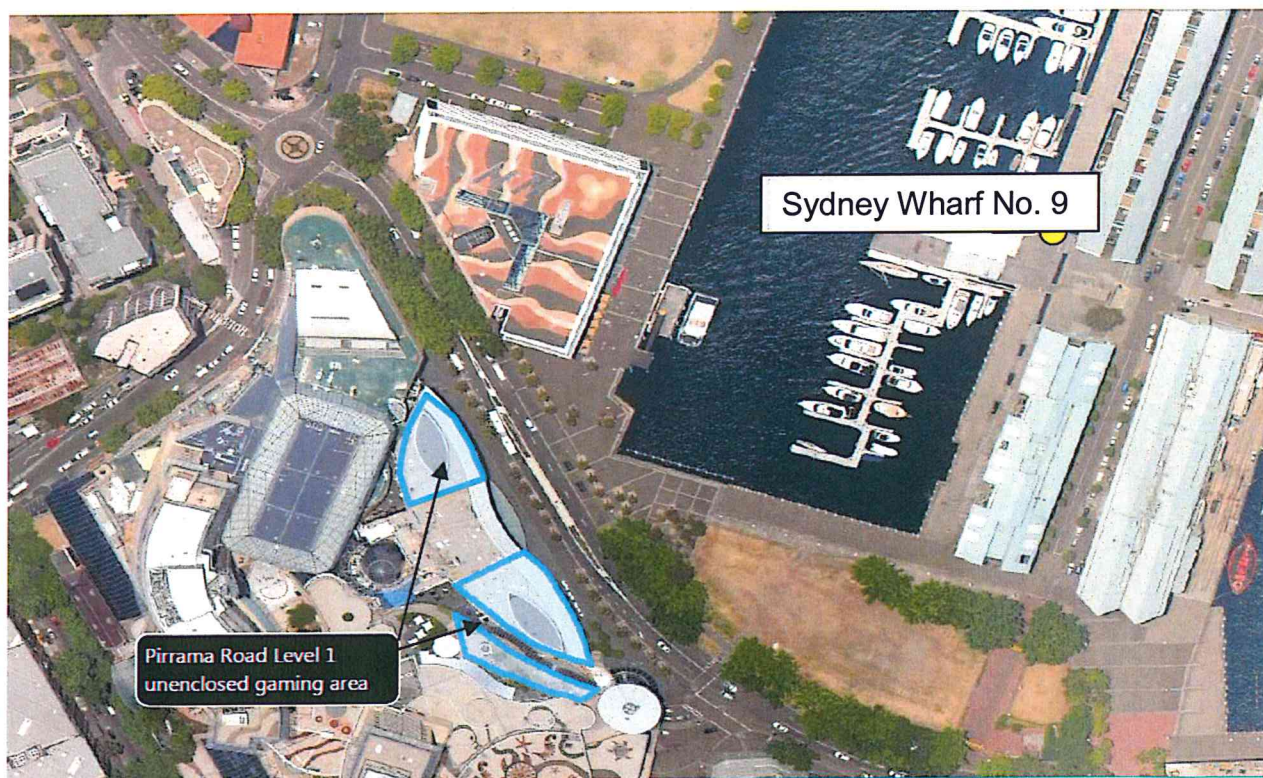


Figure 3: Aerial overview of the location of the Star City Casino Level 1 Pirrama Road OGAs

3. STATUTORY CONTEXT

3.1 Continuing Operation of Part 3A to Modify Project Approvals

In accordance with clause 3 of Schedule 6A of the *Environmental Planning and Assessment Act 1979* (EP&A Act), section 75W of the EP&A 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.

Consequently, this report has been prepared in accordance with the requirements of Part 3A and the associated regulations, and the Minister for Planning (or delegate) may approve or disapprove the modifications under section 75W of the EP&A Act.

3.2 Modification of the Minister's Approval

Section 75W(2) of the EP&A Act provides that a Proponent may request the Minister to modify the Minister's approval for a project. The Minister's approval of a modification is not required if the project, as modified, would be consistent with the original approval. As the proposed modification seeks to alter the conditions of approval, the modification requires the Minister's approval.

3.3 Secretary's Environmental Assessment Requirements

Section 75W(3) of the EP&A Act provides the Secretary with scope to issue Environmental Assessment Requirements (SEARs) that must be complied with before the matter will be considered by the Minister. SEARs were not issued for this modification as the Proponent has addressed the key issues that relate to the proposed modification in the modification request.

3.4 Permissibility

The original development was permissible with consent and the subject modification does not give rise to any permissibility issues.

3.5 Environmental Planning Instruments

The Department has reviewed the relevant environmental planning instruments that apply to the development including:

- State Environmental Planning Policy (Infrastructure) 2007;
- State Environmental Planning Policy 55 - Remediation of Land; and
- Sydney Local Environmental Plan 2012.

The Department's review has concluded that the subject modification is consistent with the relevant provisions of these EPIs.

3.6 Delegated Authority

The Minister for Planning has delegated the determination of modification requests under section 75W of the EP&A Act to the Secretary where:

- the relevant local council has not made an objection;
- a political disclosure statement has been made, but only in respect of a previous related application; and
- there are less than 25 public submissions in the nature of objections.

The City of Sydney Council (Council) raised no objection to the application and there was one (1) public submission received objecting to the proposal. Reportable political donations have been declared but only in respect to previous applications. Accordingly, the Secretary may determine the modification application in accordance with the Minister's delegation.

4. CONSULTATION AND SUBMISSIONS

4.1 Exhibition

Under section 75X(2)(f) of the EP&A Act, the Secretary is required to make modification requests publicly available. On 27 May 2014, the modification request was placed on the Department's website. In addition, the Department notified the relevant State and local government authorities and the closest residential apartment blocks surrounding the site in writing. These residents were considered to be the most likely to be potentially affected by the proposed modification.

4.2 Public Authority Submissions

Two submissions were received from public authorities in response to the exhibition of the modification request. The submissions from public authorities are summarised in **Table 2** below.

Table 2: Summary of issues raised in public authority submissions

Agency	Summary of Issues
City of Sydney Council	• Council supported the application subject to compliance with recommended conditions including the imposition of a 12-month trial for the use of speakers and amplified music in outdoor areas.
NSW Police	• NSW Police raised no objection to the application and raised no issues of concern. • NSW Police noted that it works very closely with the security management team at the Star and has no complaints relating to the area in question.

4.4 Public Submissions

One public submission (and attached petition with approximately 36 signatures) was received objecting to the application from the Executive Committee of the 'Watermark Apartments' located on Jones Bay Road, Pyrmont. The submission raised concerns regarding:

- potential noise impacts on residents from the use of speakers on the Level 3 Pirrama Road Entertainment Deck and the OGAs; and
- the potential for increased traffic during events creating traffic congestion on the local road network (e.g. Jones Bay Road).

The public submission considered that the hours of operation for the use of the speakers in abovementioned outdoor areas should be restricted and subject to a 12-month trial to demonstrate that compliance can be achieved with the noise limits in the project approval.

4.5 Response to Submissions

On Thursday 4 September 2014, the Proponent submitted a Response to Submissions report (RTS) to the Department. In the RTS the Proponent:

- generally accepted Council's recommended conditions;
- agreed to a trial period for the use of speakers and amplified music in outdoor areas but requested that the trial be for a period of 3 years to allow enough time for the collection of sufficient long-term noise monitoring data to support a future application for permanent use of the outdoor speakers; and
- confirmed that the proposed modification would not result in increased traffic (**Section 5.2**).

5. ASSESSMENT

The Department considers the key issue for the proposed modification to be potential noise impacts. Potential traffic impacts were raised in public submissions, however the Department does not consider this to be a key issue for reasons outlined in **Section 5.2**.

5.1 Noise

5.1.1 Installation and use of speakers - Level 3 Pirrama Road Entertainment Deck and Level 1 OGAs

The application includes two noise impact assessments prepared by Wilkinson Murray to support the:

- installation and permanent use of speakers on the Level 3 Pirrama Road Entertainment Deck between 7.00 am to 12.00 midnight; and
- installation and permanent use of speakers on the Level 1 Pirrama Road OGAs 24-hours-a-day.

Condition F5 of the project approval (MP 08_0098) sets out the noise limits for the premises which are determined based on the *Liquor Administration Board 'Standard Condition'* which has been adopted by the NSW Office of Liquor, Gaming and Racing. The criteria applicable at each sensitive receiver differs based on the background noise level measured/logged at each site.

To comply with the noise limits in Condition F5 between 7.00 am and 12.00 midnight, the predicted maximum allowable noise level from the premises must not exceed the background noise level (in any octave band frequency) plus 5 dBA at the boundary of the nearest affected residence.

A more stringent noise criterion applies to the facility after midnight. To comply with the noise limits in Condition F5 between 12.00 midnight and 7.00 am, the predicted maximum allowable noise level from the premises must not exceed the background noise level (in any octave band frequency) at the boundary of the nearest affected residence.

The location of these residents is depicted in **Figure 2** and **Figure 3**.

Results

Installation and use of speakers at the Level 3 Pirrama Road Entertainment Deck between 7.00am to 12.00 midnight

Wilkinson Murray used predicted noise from playing of music and a peak patron capacity of 1000 persons (as limited by Condition F7 of the project approval) to predict the noise levels at the nearest residents between 7.00am to 12.00 midnight (**Figure 2**).

The results of the noise assessment found that predicted noise levels from use of speakers at the Level 3 Pirrama Road Entertainment Deck during this time would comply with the noise limits in Condition F5 of the project approval.

It is noted that the proposed modification does not seek approval for the use of speakers on the Level 3 Pirrama Road Entertainment Deck from 12.00 midnight to 7.00 am. As such, these noise impacts have not been assessed as part of the application.

Installation and use of speakers at the Level 1 Pirrama Road OGAs 24-hours-a-day

Wilkinson Murray used measurements of the existing background noise levels at the Level 1 Pirrama Road OGAs and the nearest residents (2 Jones Bay Road, Pyrmont) to determine the maximum allowable noise levels at this residence in accordance with Condition F5 (**Figure 3**).

The results of the noise assessment found that between 7.00 am and 12.00 midnight it would be possible to play background music and make public address (PA) announcements and comply with the noise limits in Condition F5.

The results of the noise assessment found that between 12.00 midnight to 7.00 am it would not be possible to play background music and make public address (PA) announcements and comply with the noise limits in Condition F5.

Despite this, Wilkinson Murray's noise assessment concluded that it would be possible to provide low level background music (only) from 12.00 midnight to 7.00 am at the OGAs and comply with the noise limits in Condition F5, provided this music does not exceed the existing ambient noise levels at the OGAs.

Discussion

Council supports the modification application subject to compliance with recommended conditions including:

- the imposition of a 12-month trial for the use of speakers and amplified music in outdoor areas;
- compliance with the acoustic reports prepared by Wilkinson Murray to support the application including:
 - compliance with the noise limits in the project approval and the maximum noise levels predicted in Wilkinson Murray's noise assessments;
 - no playing of amplified music or the use of speakers between 12.00 am and 7.00 am at the Level 3 Pirrama Road Entertainment Deck;
 - no PA announcements between 12.00 am and 7.00 am at the OGAs; and
 - playback of low level background music only between 12.00 am and 7.00 am at the OGAs which does not exceed existing ambient noise levels in the OGAs.
- installation of noise limiters on amplification equipment; and
- implementation of the Operational Environmental Management Plans prepared to support the application including a complaints handling system.

The Proponent generally accepts the imposition of Council's recommended conditions. However, the Proponent requested that the trial period for the use of speakers and amplified music in outdoor areas be extended to 3 years to allow long-term noise monitoring to be undertaken. This would allow the collection of sufficient noise monitoring data to support a future application for permanent use of the outdoor speakers.

NSW Police raised no objection to the application and raised no issues of concern. NSW Police noted that it works very closely with the security management team at the Star and has no complaints relating to the area in question.

A public submission raised concern about potential noise impacts on nearby residents. It was considered that the use of speakers in the subject outdoor areas should be limited to between 10.00 am and 10.00 pm and subject to a 12-month trial to confirm the predictions in the application through noise monitoring.

Based on the results of Wilkinson Murray's noise impact assessment, the Department is confident that the modified project can comply with the noise limits in the project approval (subject to recommended conditions) for the hours proposed by the Proponent. As such, the

Department does not consider it necessary to restrict the hours of use of speakers in outdoor areas to between 10.00 am and 10.00 pm.

However, the Department does support a trial period for the installation and use of speakers at the Level 1 Pirrama Road OGAs and the Level 3 Pirrama Road Entertainment Deck. Although, a 2-year trial (as opposed to 12 months or 3 years as recommended by Council) for the use of speakers and amplified music in these outdoor areas would be more appropriate in this instance. This is because a 2-year trial period would allow the Proponent enough time to collect sufficient long-term noise monitoring data to support a future application for permanent use and would be generally consistent with the trial period durations recommended in Council's *Late Night Trading Premises Development Control Plan 2007*.

Notwithstanding this, recommended conditions would require the Proponent to undertake noise monitoring within 90 days of commencing the trial to confirm compliance with the noise limits in Condition F5 of the approval. In the unlikely event that the modified facility is found by monitoring not to comply with the noise limits in the project approval, recommended conditions would require additional noise treatment works to be undertaken. These works would be carried out in consultation with a suitably qualified acoustic consultant to enable timely rectification of the issue. If such works are not undertaken within 1 month of the acoustic consultant's recommendation/s, speakers would not be permitted to be used in outdoor areas until such time as the recommendations are implemented and verified.

With these conditions in place, the Department considers that the modified project would comply with the noise limits in the project approval and that suitable contingency measures are in place to enable timely rectification of any unforeseen noise impacts.

Following the completion of the 2-year trial, consent for the use of speakers at the Level 1 Pirrama Road OGAs and the Level 3 Pirrama Road Entertainment Deck would lapse. However, the Proponent would be able to lodge a further modification application to continue the use permanently. The Department's consideration of such an application would be based on the performance of the operator in relation to the compliance with these conditions of approval, acoustic monitoring at nearby sensitive receptors, compliance with the noise limits in Condition F5, any substantiated complaints received and any views expressed by the NSW Police and Council.

5.1.2 Proposed permanent 24-Hour operation of the Level 1 Pirrama Road OGAs

Condition F3 of the project approval (MP 08_0098) granted in 2009 permitted the Proponent to operate the OGAs on a 24-hour trial period for 12 months from the date of issue of the occupation certificate for these areas which occurred in 2010.

After this time, Condition F3 allowed the Proponent to make a further application to the Department to continue the 24-hour use subject to consideration of acoustic monitoring results at nearby sensitive receivers, compliance with Condition F5, complaints received and views expressed by the NSW Police.

The Department notes that the Proponent did not make such an application but has continued to operate the OGAs on a 24-hour basis since 2010 without incident.

The current application includes an acoustic review (including noise monitoring surveys) prepared by Wilkinson Murray to support the proposed permanent 24-hour operation of the Level 1 Pirrama Road OGAs.

The results of the acoustic review for 24-hour operation of the Level 1 Pirrama Road OGAs found that noise from patrons and gaming machines was inaudible at the nearest residence (i.e. Sydney Wharf No. 9 – **Figure 3**) and would therefore comply with the noise limits in Condition F5

of the project approval. On this basis, Wilkinson Murray considered that there is no technical reason to prevent 24-hour use of the OGAs.

Based on the above, the Department considers that 24-hour operation of the OGAs would be acceptable.

Council also support the modification application subject to compliance with recommended conditions and the NSW Police did not raise any issues.

The Department considers that it is appropriate to impose Council's recommended conditions (as above) into the modification instrument. The Department supports Council's recommendation for a trial for the 24-hour-a-day operation of the Level 1 Pirrama Road OGAs. However, a 2-year trial (as opposed to 12 months) is considered to be more appropriate in this instance because it would be generally consistent with the trial period durations recommended in Council's *Late Night Trading Premises Development Control Plan 2007*.

Following the completion of the 2-year trial, consent for the 24-hour-a-day operation of the Level 1 Pirrama Road OGAs would lapse. However, the Proponent would be able to lodge a further modification application to continue the use permanently. The Department's consideration of such an application would be based on the performance of the operator in relation to the compliance with these conditions of approval, acoustic monitoring at nearby sensitive receptors, compliance with the noise limits in Condition F5, any substantiated complaints received and any views expressed by the NSW Police and Council.

5.2 Traffic

A public submission raised concern about the potential for increased traffic resulting from the proposed modification. In particular, concerns were raised about the potential for increased traffic on local roads (e.g. Jones Bay Road) during events on the Level 3 Pirrama Road Entertainment Deck.

In the RTS, the Proponent clarified that the proposed modification is not seeking approval for the use of the Level 3 Pirrama Road Entertainment Deck or the OGAs. The use of the Level 3 Pirrama Road Entertainment Deck and its patron capacity (i.e. increase from 600 to 1,000 patrons pursuant to Condition F7 of the project approval) has already been assessed and approved as part of previous applications. The Department therefore considers that traffic impacts are not a relevant issue associated with the subject modification.

6. CONCLUSION

The Department has assessed the application on its merits and concludes that the proposed modification is reasonable as it would result in minimal environmental impacts.

The proposed modification would also allow the Proponent to undertake the following over a 2-year trial period:

- deliver live and recorded music at the Level 3 Pirrama Road Entertainment Deck for events, private and corporate functions;
- deliver background music and PA announcements at the Level 1 Pirrama Road OGAs for the amenity and convenience of patrons; and
- operate the Level 1 Pirrama Road OGAs 24-hours a day for the convenience of patrons consistent with other gaming areas of the Star.

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

7. RECOMMENDATION

It is recommended that the Secretary:

- **determine** that the proposed modification is within the scope of section 75W of the EP&A Act;
- **approve** the application subject to conditions; and
- **sign** the attached notice of modification (see Appendix A).

Prepared by: Andrew Hartcher

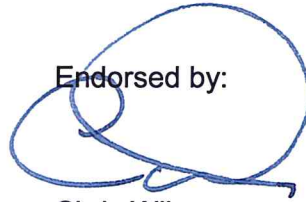
Endorsed by:



14/10/14

Cameron Sargent
A/Manager
Industry, Key Sites and Social Projects

Endorsed by:



14.10.14

Chris Wilson
Executive Director
Infrastructure and Industry Assessments

Approved by:



Carolyn McNally
Secretary
14.10.14

APPENDIX A MODIFYING INSTRUMENT

APPENDIX B SUPPORTING DOCUMENTS

Supporting documents available on the Department's website include:

- the modification application;
- the Environmental Assessment and supporting documentation;
- submissions; and
- the response to submissions report.

See the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6542

APPENDIX B HISTORY OF APPROVED MODIFICATIONS TO PROJECT APPROVAL

Since 2009, the Part 3A approval (MP 08_0098) has been modified eleven (11) times (**Table 1**):

Table 1: Approved modifications to MP 08_0098

Modification No.	Approval Date	Approved Modifications
MOD 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.
MOD 2	25 March 2009	Modification of Condition B2 to clarify the approved hotel height, and exclude lift overruns from the height limit.
MOD 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.
MOD 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.
MOD 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.
MOD 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.
MOD 7	29 July 2011	Approved the construction of the MUEF on the level 4 roof top terrace area.
MOD 8	17 November 2010	Partial enclosure of the existing outdoor terrace adjoining the Sovereign Room on level 3.
MOD 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.
MOD 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.
MOD 11	17 October 2012	Amend Condition F1 'No Speakers or Outside Music' to permit the playback of background music and DJ/live band/ amplified music events on the Level 3 Darling Pool Terrace of the Star Casino.