

13 December 2016

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Our Ref: 2016/630380

Brendon Roberts, Team Leader - Key Sites Assessments
NSW Government
Department of Planning and Environment
320 Pitt Street
Sydney NSW 2000

Attention: Michelle Nettlefold, Senior Planner
Email: michelle.nettlefold@planning.nsw.gov.au

Dear Michelle,

MP 08_0098 – Alterations and Additions to The Star Casino Complex and New Hotel on former Switching Station – MOD 14

The City of Sydney (the City) has had the opportunity to review the Applicant's Environmental Assessment for proposed MOD 14 to Part 3A approval MP 08_0098.

The proposed modification is for:

- (a) alterations and additions to The Star including expanding the gaming floor, enclosing the Level 3 terrace, enclosing the Level 3 pre-function space, upgrades to retail tenancies, changes to the Astral Hotel lobby and retail space, internal alterations to the heritage-listed "SELS Building" and alterations to access arrangements.
- (b) consolidation of existing approvals granted by the City of Sydney since January 2009 into Project Approval MP 08_0098.

The proposed method of consolidating the approvals is to lift and modify the operative provisions of the City's consents into the Project Approval instrument and to adopt a consolidated set of "as built" architectural drawings.

The City objects to the proposed consolidation of previous City of Sydney approvals into the Part 3A Project Approval and calls upon the Planning Assessment Commission to determine the application.

Subject to the qualifications outlined in this letter, the City does not raise issues in relation to the suite of design changes proposed within the modification.

1. Lease under NSW Casino Control Act

Documentation lodged with MOD 14 states as follows:-

1. the works raise the standard of the complex so that it is consistent with the lease requirements issued under the Casino Control Act
2. the works ensure that the SEGL group of companies satisfy their ongoing commercial obligations to the NSW Government to maintain The Star to a first class international standard.

The presence of, and terms of, a lease agreement with the NSW Government should not fetter the decision-making and approvals process for the site.

The City recommends that the MOD be assessed by an independent planner and referred to the Planning Assessment Commission for determination.

If an equivalent application were lodged with the City of Sydney (i.e. for a DA on land owned by the City which purportedly improves the property so that it complies with a lease from the City to the Applicant), the City would have the application independently assessed and could not determine the application under delegation.

2. Proposed Consolidation of Approvals into former Part 3A

MOD 14 proposes to consolidate existing City of Sydney consents for the site into the Project Approval and thereby transition those consents into the Part 3A planning system.

The proposed consolidation of Part 4 consents issued by the City into the Part 3A Project Approval would:

- remove the City from ongoing management of consents it has issued
- transfers compliance functions from the City to the Minister for Planning
- avoid the established fundamental thresholds that have been issued under Part 4 in relation to subsequent modifications under Section 96 of the EP&A Act
- allow access to the seemingly unlimited powers of modifications under Section 75W of the EP&A Act
- transform time-limited and trial-period trading hours consents issued under Part 4 into permanent approval under Part 3A.

The proposed consolidation of City consents into the Project Approval also raises the question of whether NSW Planning and Environment is best placed and equipped with sufficient resources to take on the entire consent authority and compliance role for the site. The resources considered mandatory to a site with such variation and complexity as The Star are listed as follows. These resources are necessary throughout the approvals process to provide detailed advice and at the detailed design and operational phases.

1. Customer service personnel for complaints and day-to-day issues
2. Food premises officers for annual and periodical inspections
3. Health and building inspectors for mechanical plant, air quality, pool testing and noise related issues
4. Acoustic specialist for particular advice on a range of issues associated with operational noise, traffic noise and construction noise
5. Licensed premises staff for licensing and late night trading premises issues
6. Heritage specialist for detailed advice on archaeological and heritage impact assessments
7. Landscape architect for design expertise in urban tree, gardens and structures

8. Tree management team to advise on public and private trees
9. Safe city officers to advise on crime risk identification, crime prevention techniques and Crime Prevention Through Environmental Design audits
10. Public domain staff to advise on design and maintenance of streetscapes
11. Traffic engineers and other transport staff to give advice on a wide range of design and operational fronts
12. Developer contributions staff to oversee the creation and implementation of contributions schemes
13. Sustainability staff to provide input into design and certification for energy, water, waste, etc saving techniques
14. Design excellence team to oversee competitive design processes

It is understood that the Applicant is re-considering the content of MOD 14. In this regard, The Star has advised that:

- it wants to now limit the consolidation of City of Sydney and NSW Government approvals to only those approvals relating to gaming areas of the casino
- it does not want to proceed with the consolidation of City of Sydney consents for non-gaming areas. It is not known precisely what this encompasses, but presumably this includes consents for restaurants, the food court, signage, lighting and the like
- it intends to amend the MOD 14 application after the exhibition period via the Response to Submissions.

The above intentions are preliminary and subject to confirmation by the Applicant and obviously cannot be relied upon until these aspects of the proposal are formally withdrawn. The City will however review any changes that the Applicant makes at the Response to Submissions stage. That review must be of a very forensic nature in that the volume and content of consents creates complexities and nuances. Whatever the outcome, the Project Approval will ultimately have to ensure that conditions that have been imposed for proper planning purposes are upheld and the full range of environmental impacts managed by existing consent conditions are understood and countered.

At this stage, the following questions arise:

- is the Applicant considering the Astral Hotel and Astral Residences as gaming or non-gaming areas? i.e. the Astral hotel check-in and lounge works approved by the City.
- are outdoor terraces, pre-function spaces, function spaces, pool area, Lyric Theatre, etc, considered gaming or non-gaming? These have various City consents.
- what will happen with “hybrid” consents that are part gaming related and part non-gaming related – e.g. D/2015/1826 which has works to Astral Hotel and gaming areas?

The City will have to review the Applicant’s approach at the Response to Submission stage before confirming any other reasonable position before being able to move forward.

The Applicant should remove the request to consolidate City of Sydney consents and make clear that consent is not sought for any set of consolidated “as built” drawings in relation to the City consents. The City-approved DA plans should not be rolled into Part 3 Project Approval plans as this has implications for modifications and compliance matters. The Environmental Assessment (EA) is currently unclear in relation to whether “as built” drawings are indicative/lodged for information, or lodged for approval. One part of the EA describes the drawings as “for information purposes” whereas the Applicant’s invited draft conditions of consent list each drawing.

Regardless of whether MOD 14 is amended by the Applicant, the following requires further consideration:-

- it is readily apparent that the condition being sought for “Minor Work”, comprising works that the Applicant wants to carry out without a further modification to the Project Approval, is not reasonable, and is not supported by the City.

The intention to access the equivalent provisions of SEPP (Exempt and Complying Development Codes) 2008 provides no transparency of process. The request is a result of the casino components of the site not qualifying for Exempt and Complying Development due to the definition of a “restricted premises” under the Standard Instrument LEP.

However, the intention to allow any type of amendments to the site without any further approval, including works that are inconsistent with Exempt or Complying Development under the Codes SEPP, is not supported and strongly objected to. The Applicant is seeking to be able to carry out significant development without any approval under a highly flexible condition. The only proposed limits are as follows:-

1. if the Secretary considers the amendments are minor; or (*not “and” we note*)
2. where the amendments relate to the relocation of gaming, food and beverage, and entertainment floor space within The Star where there is no change in overall land use GFA portions.

This is not supported by the City.

If the proposed condition were adopted as presented, the Applicant would be able to:-

- rely on the sole discretion of the Secretary or her delegate in relation to what “minor” may constitute in the absence of any limits on environmental impacts, built form, capital investment value or the usual pre-conditions found in Exempt and Complying Development pathways from which the Casino is specifically excluded.
- proceed with relocation of gaming, food and beverage or entertainment area to anywhere within the building without the need for any Secretary or Department review and without the usual limitations associated with Exempt and Complying Development.

The request lacks definition and limitations. For example, the following development could theoretically proceed if the proposed condition were adopted:

- any development which passes a subjective test, in the mind of the Secretary, of being “minor” such as alterations and enlargement of building bulk and scale, changes to traffic and pedestrian arrangements and reduction in environmental safeguards.
- relocation of main gaming floor space to current airspace or where it has visual, view loss, acoustic and other impacts, some of which may not be apparent to the decision-maker until the community and stakeholders are consulted
- concurrent or mass relocation of food and beverage tenancies to positions where those tenancies have adverse air quality, acoustic, visual, heritage or other impacts on neighbouring properties.
- relocation of gaming or food and beverage area to the heritage-listed SELS Building without full and proper consideration of heritage impacts.

Development that theoretically could proceed down this path is incapable of transparent and rigorous environmental assessment and community consultation. As such, the portions of the condition that go above-and-beyond Exempt and Complying Development are not appropriate. Taking into consideration that a new residential tower to the site (Mod 13) is seen as minor or substantially the same under Section 75 w - there is no question that such a condition as proposed will be exploited and abused.

- the City and the Department have historically issued 5-year consents for public and private events at event precincts and purpose-built areas. This allows for the review of applicable noise controls and management of events for other reasons, especially in a field where the variety and complexity of events is constantly expanding and amplification equipment is becoming more technologically advanced. The proposed permanent approval of the use of the Level 3 Pirrama Road Entertainment Deck is not supported and should be approached as a 5-year consent that lapses should an extension not be sought.
- the proposal for 24 hour internal construction requires a much higher degree of rigour in the assessment. The condition sought by the Applicant is too flexible in that it would permit all work, including highly intrusive noise generating equipment, on a 24 hour basis. The City generally restricts 24 hour construction to minor internal fitout works of a cosmetic, non-structural and non-destructive nature. Some limits to internal works are actually reflected in the Acoustic Assessment lodged. The assessment cites that low impact internal works within fully enclosed areas should be allowed. However, those limits are not reflected in the draft condition and are not necessarily the only limits to consider.

MOD 14 also includes the proposal to make several time-limited and trial-period consents permanent. Putting an end to trial periods, and thereafter rolling 5 year consents, is not supported by the City.

It is noted by the City that there have also been recent allegations of The Star under-reporting statistics and details of violent incidents at the property. This would include licensed tenancies governed by the City's consents. Trial period consents provide opportunities to review the management of licenced premises and adjust the operation of the relevant premises if necessary.

The consents where trial periods are currently required include:

- Pizzaperta (D/2013/1259/A): 11 January 2016: 1 year trial consent to operate until midnight to expire 11 January 2017.
- Darling VIP balconies and outdoor gaming area: (D/2015/233): 4 June 2015: 1 year trial consent from issue of occupation certificate to operate 24 hours a day.
- Balla restaurant (D/2011/18/B) 1 December 2014: 5 year consent to operate until 2am to expire 1 December 2019.
- Black restaurant (D/2011/19/B) 20 November 2014: 5 year consent to operate until 2am to expire 20 November 2019.
- Oasis Gaming (D/2015/1072) 27 October 2015: 1 year trial consent from issue of occupation certificate to operate 24 hours a day.

The outlets listed above as trial consents are Category A premises under the Sydney Development Control Plan 2012.

Trial hour consents under the Sydney Development Control Plan (Sydney DCP) 2012 allow for trial periods of 1 year, 2 years and 5 years that are subject to review following consideration of a further application to extend or modify the hours.

Under the DCP, trial period consents are not converted to permanent hours of use but replaced with further 5 year trial periods dependent on the performance and good management of the operator.

Replacement of trial period consents with permanent consents will reduce the City's ability to regulate the operation of the outlets, should future issues arise from noise or public order, and is not recommended. Trial consents should remain in accordance with Sydney DCP to gaming and non-gaming areas.

3. Noise Issues

In addition to the proposed consolidation of trial period consents as permanent hours of use for the described areas, the noise impact assessment aims to address the following additional acoustic items:

- Seek permanency of current temporary noise conditions applicable on Level 3 event deck and Level 1 Unenclosed Gaming Area
- Seek permanency of current trial periods relating to hours of operations applicable to the North West gaming area
- Demonstrate that noise egress from the operation of the development, including patron and music noise and building services noise will not adversely impact on the neighbourhood

- construction noise and vibration

There is no current permanent consent for the Level 3 event deck. The Applicant has operated a number of temporary events on the existing external terraces at Level 3.

Externally mounted speakers have been used for many of the events on the basis of requiring compliance with Councils' acoustic criteria for temporary and fixed premises to date. It is recommended that should permanent consent for this proposed use be considered favorably, trial-hours should apply in accordance with the Sydney DCP.

4. Landscaping

The Star previously forwarded the City images of proposed MOD 14 landscaping works including a chef's garden at Level 3, a children's play space at Level 13, extensive planters and extensive terraces.

The plans with MOD 14 have minimal landscaping. Included are a planter bed adjacent the pre-function space above the Pyrmont Street port cochere entry, and minimal rooftop planter boxes.

Generally speaking, The Star property, including the new rooftop, should have extensive landscaping to reduce heat load, soften the appearance of the development, contribute to urban canopy and promote water re-use.

It will not be an adequate argument to forego planting around and above the new Level 3 work in anticipation of future works associated with a hotel and apartment tower (MOD 13) which is not the subject of any SSD application at this stage.

5. Heritage Conservation

In the north-west corner of the is the heritage listed former Pyrmont Power Station Administration Building (SELS Building) fronting Pyrmont Street with the northern porte cochere behind.

The level of detail in the MOD 14 drawings is inadequate to determine what is being proposed and to assess the impact of the works on the heritage item. The proposed works to the SELS Building should be shown clearly on drawings, at least at a scale of 1:100 at A3. Any aspects of new works not shown on the drawings should not form part of the application.

It is noted that fit-out to the retail tenancy in the SELS Building is subject to "future detail" and should be the subject of a separate DA.

In terms of the plaza space in front of the retail tenancy, details including paving, walls, seating, landscaping, lighting and the like should be shown on drawings if this is part of MOD 14.

The replacement awnings to the retail tenancy are supported in principle subject to them being designed to fit within the recessed section of the brickwork. There is insufficient detail in the drawings to confirm that this will be the case. More detailed drawings are required showing full details of the awning including location, fixings, framing, and the type and colour of awning fabric.

In relation to the new ceilings in the northern porte cochere near the SELS Building, there should be sections showing details of what is proposed.

In relation to proposed lighting to the Pymont Street facade of the SELS Building, the report by *Point of View* includes a drawing “to convey design intent only” but the details are not shown on the submitted plans. If this is part of the DA then the following additional information is required:

- (a) A methodology for lighting the Pymont Street façade of the SELS Building, prepared with input from the Applicant’s heritage consultant, addressing matters such as :
 - Penetrations
 - Fixings
 - Cabling
 - Avoiding chasing in brickwork
 - Location of lighting
- (b) Elevational drawings of the Pymont Street elevation showing the location and details of the proposed lighting.

With regard to the arrival lounge, the demolition plan is unreadable and the proposed changes are difficult to decipher. Clear details of the demolition and the changes being proposed should be shown on the drawings, including sections, which should include the extent of demolition, lightweight construction of the new partition for the butler’s pantry and other changes to the room layout, removal of the suspended ceiling, details of screening, etc.

In relation to the proposed water feature and sculpture on the porte cochere side of the SELS Building, no details have been submitted on the drawings for this feature. In pre-DA advice given by the City to The Star, the City recommended that *to reduce its visual impact on the SELS Building the water feature structure should be no forward of the line of the face brick return of the SELS Building, and be reduced in height such that the top of it is no higher than the base of the sill of the first floor double-hung sash window within this brick return section of the building.*

Finally, the recommendations in Section 6 of the Heritage Impact Statement should be imposed as conditions of any consent granted. It would be useful if the updated CMP for the SELS Building, prepared by URBIS, was submitted with the application at the Response to Submissions stage.

6. Traffic, Parking and Access

Intersection performance

SIDRA intersection modelling results as presented in the submitted traffic report depicted that with the proposed 5% increased GFA (corresponding additional 5% trips associated to The Star site), 7 out of the 8 adjacent intersections will be expected to have no change in terms of ‘Level of Service’.

However, the Pymont Street and Pymont Bridge Road intersection performance will go to a lower performance level of “C” from “B” in the off-Peak hours (10:30 pm to 11:30 pm). The City notes that this traffic network assessment is conducted under the existing conditions. No change in the access and egress arrangements to

and from The Star and no change in the traffic and parking restrictions was given as input to the traffic modelling exercise.

Vehicle Parking

The provision of no additional parking for The Star is supported.

The site is connected and accessed by a range of public transport including light rail, bus, taxi, ferry and a heavy rail station is only a 15 minute walk from it. The Star also has private bus shuttle services for patrons. Moreover, the traffic report submitted identifies adequate surplus parking spaces within the existing on-site parking lots. There are also commercial parking facilities with surplus capacity within walking distance of the site.

Constraining private vehicle parking will also be a trigger to the staff, visitors and customers of this site to use more sustainable options like public transport, walking and cycling.

Servicing / Loading bay

No additional on-site loading bay is proposed for the extended GFA. Service vehicle parking requirements should comply with Sydney DCP 7.8.1. MOD 14 may require additional loading/servicing for the proposed extension of 6633 m² GFA. The traffic report submitted did not address this issue.

A loading/service dock management plan should be submitted and approved.

Bicycle Parking and End of Trip Facilities

The traffic report acknowledges that the recent trends shows a modal shift towards public and active transport (walking, cycling) from car travel. The use of bicycles depends largely on bicycle connectivity, the location of bicycle parking space, end of trip facilities, its safety, security and the availability of bicycle friendly infrastructure.

Awareness campaigns, education and motivation to use a bike for travel is also important to grow ridership. The site is situated in an excellent location which enjoys good existing bicycle infrastructure including lane separated facilities.

The traffic report has mentioned that there are currently no formal bicycle parking provisions for guests visiting the site. The traffic report states that there are opportunities to improve bicycle parking and end of trip facilities at The Star.

The City of Sydney's Sustainable Sydney 2030 Strategy has a goal of at least 10 per cent of City trips being made by bicycle and it is expected that The Star would also align with this policy. However, no bicycle and end of trip facilities are proposed for the extended GFA in MOD 14.

Bicycle parking for visitors should be provided in an accessible on-grade location near a major public entrance to the development and signposted.

In accordance with the Sydney DCP, the provision of 1 bicycle parking space per 10 staff and 1 bicycle parking space per 40m² GFA should be appropriate.

Staff parking should be class 2 facilities (known as Class 'B' in the latest Australian Standards) and provided as per AS2890.3:2015, and be located at an accessible at-grade location in a separate location to the visitor parking area.

Visitor parking might be class 3 facilities (known as Class 'C' in the latest Australian Standards) and provided as per AS2890.3:2015 and be provided at an accessible at-grade location.

Bicycle End of Trip Facilities

Improved bicycle parking and end of trip facilities (such as lockers and showers) are required. The City would welcome the proponent investigating opportunities to provide best-practice in staff and customer/visitor bicycle parking to include (but not be limited to) services such as: Air compressors for tyre inflation, filtered water, bicycle service rack & tool kit, communal bicycle tools, bicycle tune up and repair services, drying rack, complimentary towel services, ironing stations, dry cleaning services, hair dryers, baby change rooms, vending machines, bicycle user group support, etc.

7. Sustainability

The proposed upgraded heat rejection system to/from Sydney Harbour is supported provided that the Department's assessment demonstrates that the marine impacts are acceptable. In this regard, the City recommends a peer-review of the Applicant's Marine Impact Assessment.

In relation to internal lighting the Environmental Assessments refer to a standard of 10 watts per square meter in gaming areas. This may exceed compliance with Section J of the National Construction Code / Building Code of Australia.

The proposed microturbine looks like it will reduce carbon emissions. However, a strategy for reporting performance outcomes, to the public, needs to be developed.

The Applicant's GreenStar proposals are considered logical. However, it is the City's position that credits in water and energy categories should be maximised ahead of all other credit options to align with the City's sustainability priorities.

8. Public Domain

Site visits carried out recently have confirmed the presence of an aging public domain with an asphalt footway affected by root lifting and trenching for services in numerous locations. A number of accessibility issues were noted that included pram ramps that do not meet the City's Standard Technical Details and some areas of steps that should have tactile warning strips installed. The public domain would benefit from an upgrade to address the above issues and generally improve the curtilage. Specific areas that should be upgraded are:

- Deteriorating footway at the western end of Pirrama Road as it ramps up towards Jones Bay Road. Asphalt is lifted by tree roots particularly along the back of kerb where a number of repairs have occurred
- Similar deterioration in Jones Bay Road at a number of locations
- Risk associated with a lack of tactile paving along the edge of steps at the western end of Jones Bay Road
- Lifted and damaged asphalt at a number of locations in Pyrmont Street, particularly at the proposed arrival lobby

- Pedestrian ramps at a number of locations do not align with the central traffic island or the ramp on the opposite side.

It is noted that the steps mentioned above will be removed by the proposed works under this modification so tactile warning strips will not be required. However, changes will be required to the footway in this vicinity including the vehicular crossover.

Discussions with the Applicant have noted that wider connections to the city and harbour are desired. These discussions have generally not focused upon the public domain improvements that are presently needed. At this point there is no timeline for the provision of an upgraded public domain to suit the needs of the proposed increased pedestrian activity.

Essential public domain upgrades listed below should be conditioned with this modification as an absolute minimum:

- Pyrmont Street – south of the upgraded lobby entrance to the intersection of Jones Bay Road
- Jones Bay Road – West of grid line F to the intersection with Pyrmont Street.

Should you wish to speak with a Council officer about the above, please contact Chris Corradi, Area Planning Manager (Major Projects), on 9246 7592 or at ccorradi@cityofsydney.nsw.gov.au.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'GJahn', with a large loop at the bottom left.

Graham Jahn AM
Director
City Planning | Development | Transport