



Star Casino Complex and Switching Station Modification 16

Changes to trial periods, balconies and external finishes
State Significant Development Modification Assessment
(MP08_0098 MOD 16)

March 2022

Published by the NSW Department of Planning and Environment

dpie.nsw.gov.au

Title: The Star Casino Modification 16

Subtitle: Changes to trial periods, balconies and external finishes

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Glossary

| Abbreviation | Definition |
|----------------------------|--|
| Council | City of Sydney Council |
| Department | Department of Planning and Environment |
| EP&A Act | <i>Environmental Planning and Assessment Act 1979</i> |
| EP&A Regulation | <i>Environmental Planning and Assessment Regulation 2000</i> |
| EPI | Environmental Planning Instrument |
| ESD | Ecologically Sustainable Development |
| LEP | Local Environmental Plan |
| Minister, the | Minister for Planning |
| RMS | Roads and Maritime Services, TfNSW |
| Planning Secretary | Secretary of the Department of Planning and Environment |
| POEO Act | <i>Protection of the Environment Operations Act 1997</i> |
| SEPP | State Environmental Planning Policy |
| SRD SEPP | <i>State Environmental Planning Policy (State and Regional Development) 2011</i> |
| SSD | State Significant Development |
| TfNSW | Transport for NSW, RMS |
| UGA | Unenclosed Gaming Area |

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1 Introduction

1.1 Background

This report provides the NSW Department of Planning and Environment's (the Department's) assessment of an application to modify the development consent (MP08_0098) at the Star City Casino Complex, Pyrmont in the City of Sydney Local Government Area.

The modification application seeks approval to extend the operational trial periods for unenclosed gaming areas (UGA) and balconies, expand balconies in The Star Grand Hotel and other façade changes on the upper floors of The Star Grand Residences and The Star Grand Hotel towers.

The application was lodged by Ethos Urban on behalf of Star Entertainment Group Limited (the Applicant) pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**).

1.2 The Site

The Star Casino complex is located at 20-80 Pyrmont Road on the western side of Darling Harbour. The site is bound by Jones Bay Road to the north, Pirrama Road and Edward Street to the east, Union Street to the south and Pyrmont Street to the west (**Figure 1**).

The site is irregular in shape with a total area of 39,206m². It is legally described as Lot 500 DP 1161507, Lots 301 and 302 DP 873212, Lot 211 DP 870336, Lot 201 DP867855 and Lot 1 DP 867854.

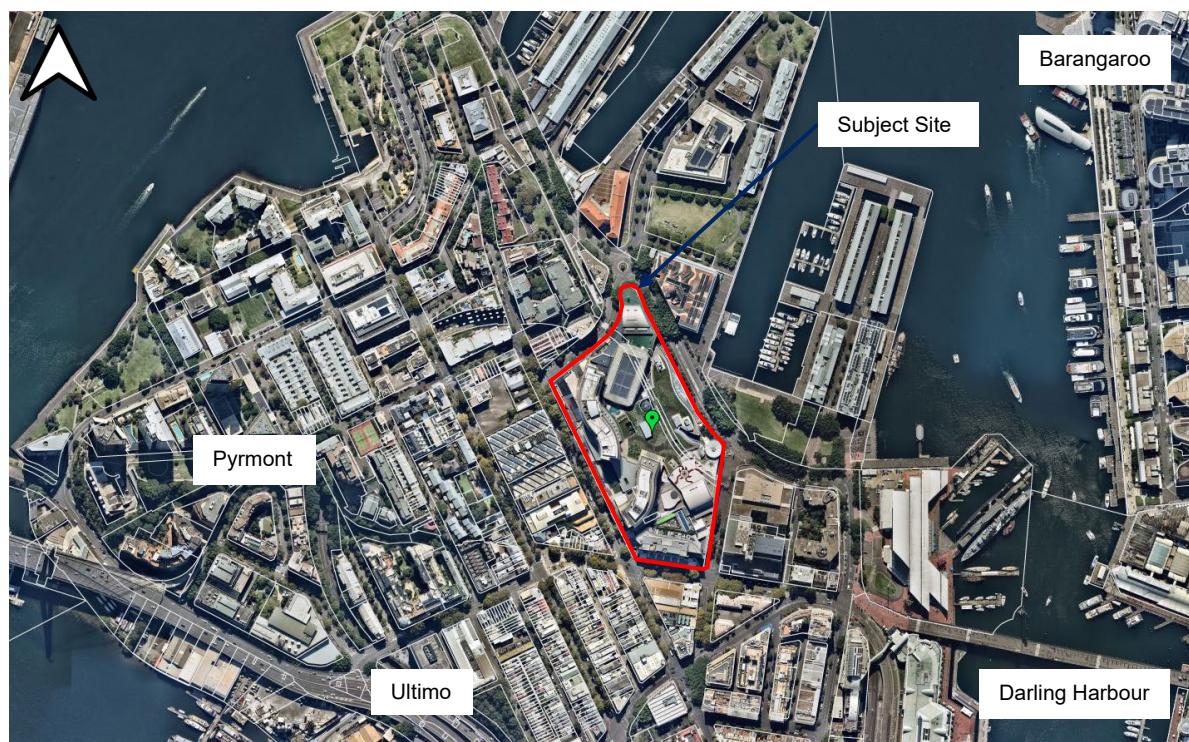


Figure 1 | Regional Context Map (Source: NearMap)

Existing facilities on the site include a multi-storey entertainment facility, retail, gaming areas, restaurants, bars, the Sydney Lyric Theatre, 480 hotel rooms/serviced apartments across three towers and basement parking. The site also contains the former Pyrmont Power Station Administration Building (also referred to as the Sydney Electric Light Station Building (SELS), a locally listed heritage item fronting Pyrmont Street.

The site is owned by Place Management NSW, who has provided land-owners consent to the application.

Surrounding development includes commercial, residential, public recreation and mixed uses to the north, Pyrmont Bay Park, Sydney Wharf and Pyrmont Bay to the east, mixed use development and residential dwellings to the south and commercial uses to the west (**Figure 2**).

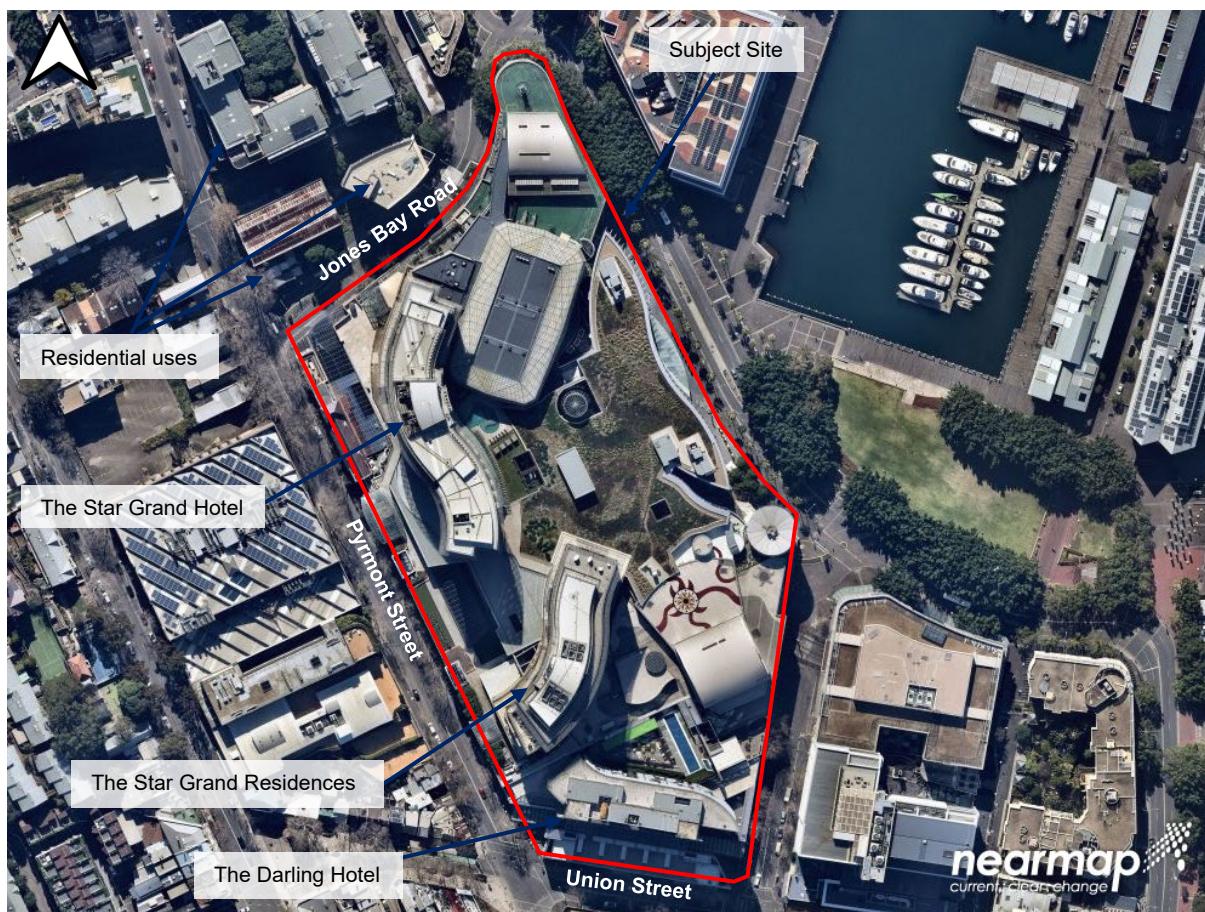


Figure 2 | Local Context Map (Source: NearMap)

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 the Star City Casino and Entertainment Complex and the Darling Hotel Development which consisted of:

- the construction of a 10-storey hotel above podium

- additional basement car parking
- redevelopment of the retail arcade through the ground floor level of the complex
- redevelopment of the eastern (Pirrama Road) frontage of the Casino building to contain additional restaurants, retail outlets, gaming space, and a new entry and driveway
- works to the exterior of the existing Casino tower buildings.

MP 08_0098 has been modified 14 times, and one modification application (MOD 13) has been refused. A summary of these applications is provided at **Appendix C**.

1.4 Conditions relevant to this application

The site has many entertainment, gaming and hospitality uses that generate noise. The consent has several conditions to manage noise emissions including:

- Condition F1G, which manages complaints handling for the use of outdoor speakers and amplified sound systems
- Condition F3, which manages the standard hours of operation and provides for trial periods for 24/7 operation of the UGAs and terrace areas
- Condition F5, which sets a cumulative noise envelope for the site so that 'offensive noise' as defined by the *Protection of the Environment Operations Act 1997* (POEO Act) does not extend to any place beyond the site. The purpose of this approach is so that where compliance is achieved for cumulative noise emissions, it will effectively satisfy the noise levels of each noise generating area and avoid a scenario where noise levels are breached where multiple areas are used at the same time.
- Condition F6, which required the Applicant to prepare an acoustic review of UGAs, entertainment areas and reduction spaces across the site following the approval of MOD 14.

2 Proposed modification

The modification application seeks approval to:

- extend and consolidate trial periods for the operation of unenclosed gaming areas (UGAs) on levels 1, 2 and 3 and balconies servicing private gaming rooms fronting Union Street by two years
- expand balconies on Level 17 of The Grand Star Hotel (**Figure 3**, **Figure 4**, **Figure 5** and **Figure 6**) by removing existing balustrades, shade structures and constructing infill areas
- remove decorative steel framing from the roof of The Star Grand Residences tower (**Figure 3** and **Figure 6**)
- paint decorative steel framing on the upper floors of The Star Grand Hotel and The Star Grand Residences (**Figure 6** and **Figure 7**)
- amend the documents and associated conditions to facilitate these changes
- amend conditions of consent that relate to the Pirrama Road Entertainment Deck, which was removed as part of MOD 14.

The Applicant is seeking the proposed modifications to rationalise the end dates of the UGA trial periods to simplify compliance monitoring, improve the outdoor amenity for guests and improve the façade treatment of The Star Grand Hotel and The Star Grand Residences.

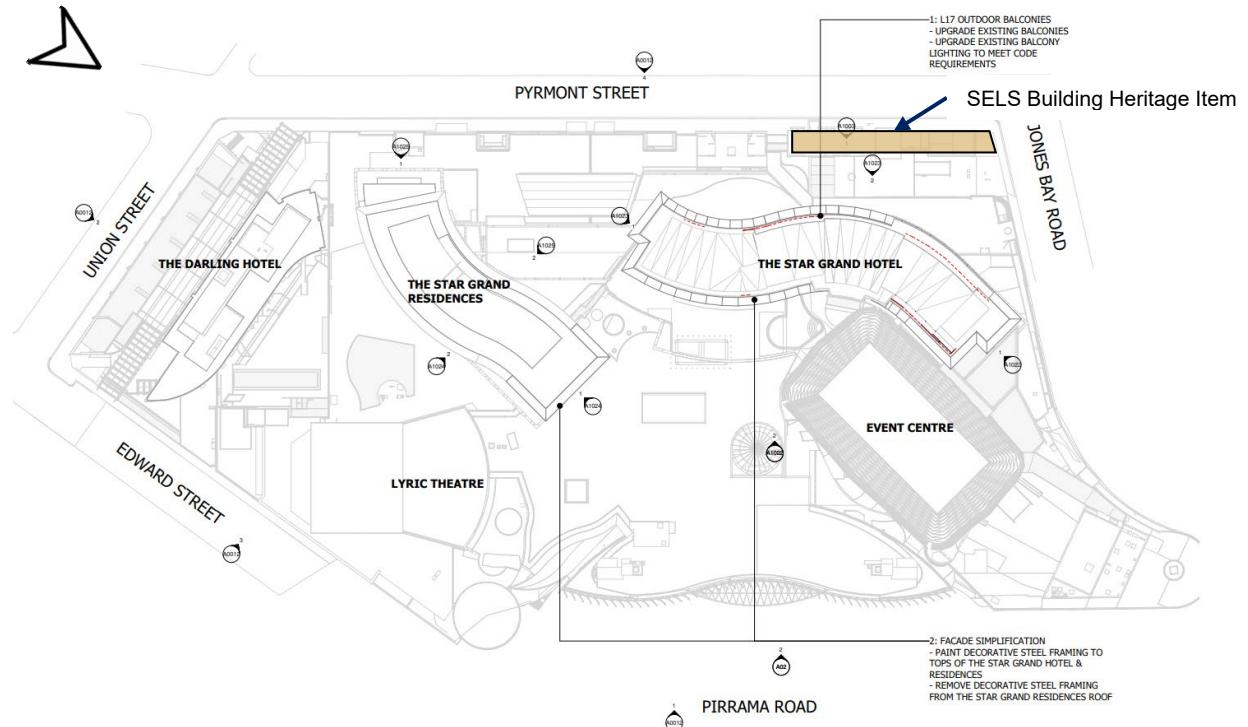


Figure 3 | Location of proposed modifications (Source: Architectural Plans)



Figure 4 | Proposed balcony expansions in The Star Grand Hotel (Source: Architectural Plans)

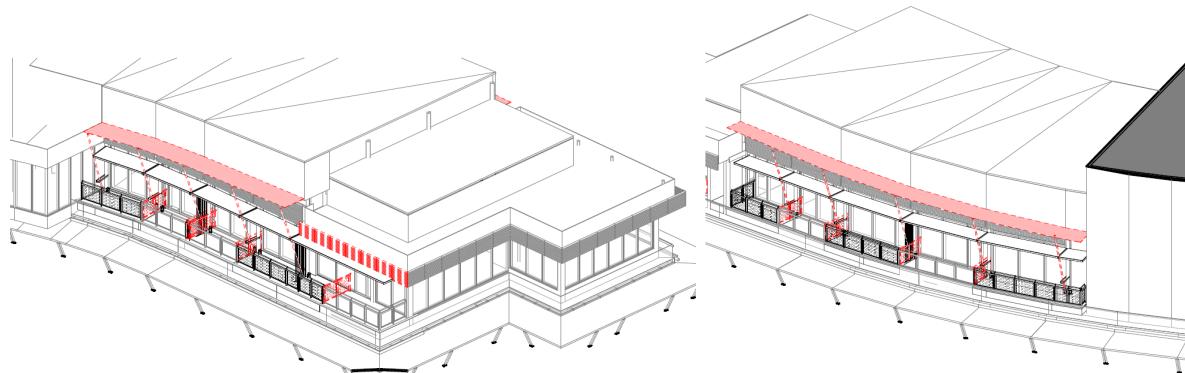


Figure 5 | Isometric diagram of proposed balcony 1 (left) and 3 (right) (Source: Architectural Plans)

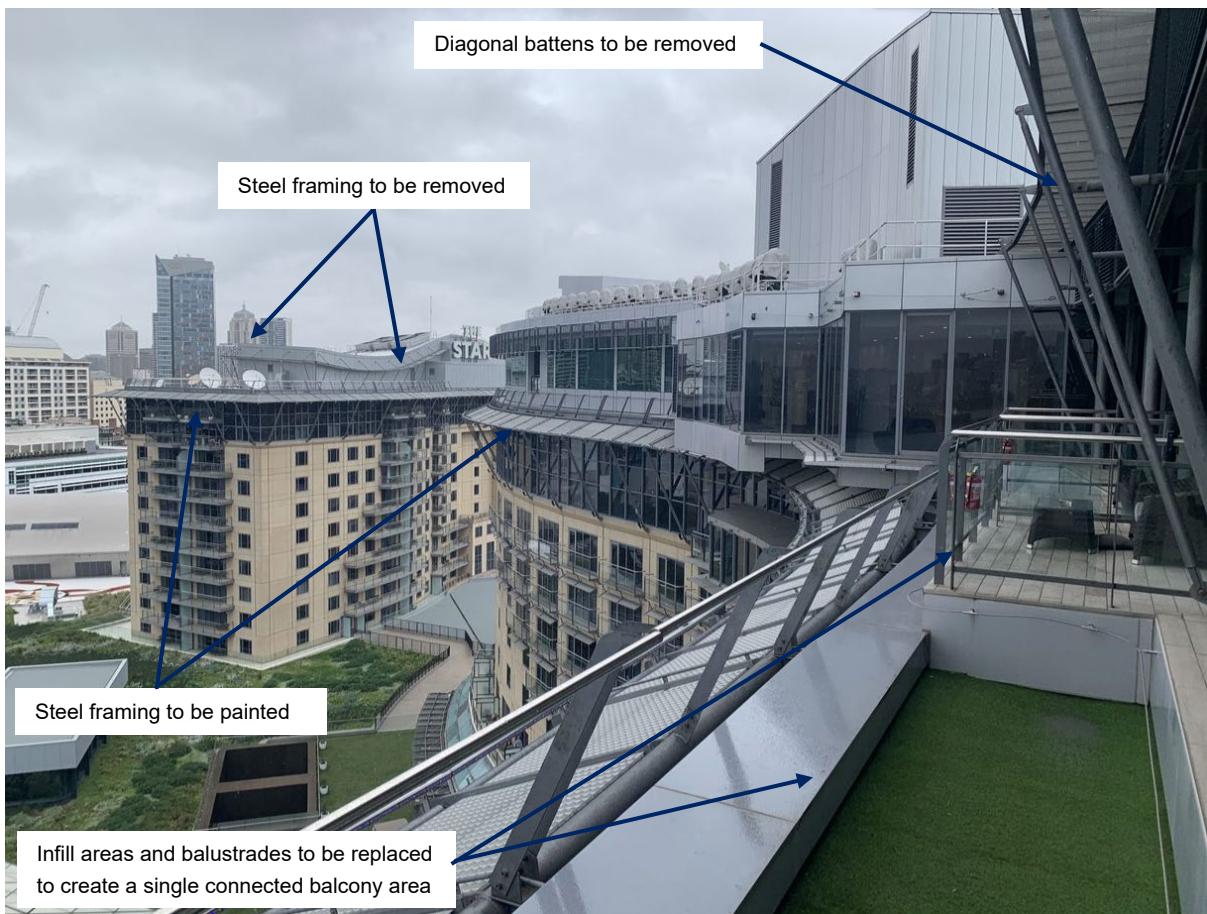


Figure 6 | Location of upper floor works (Source: DPE)

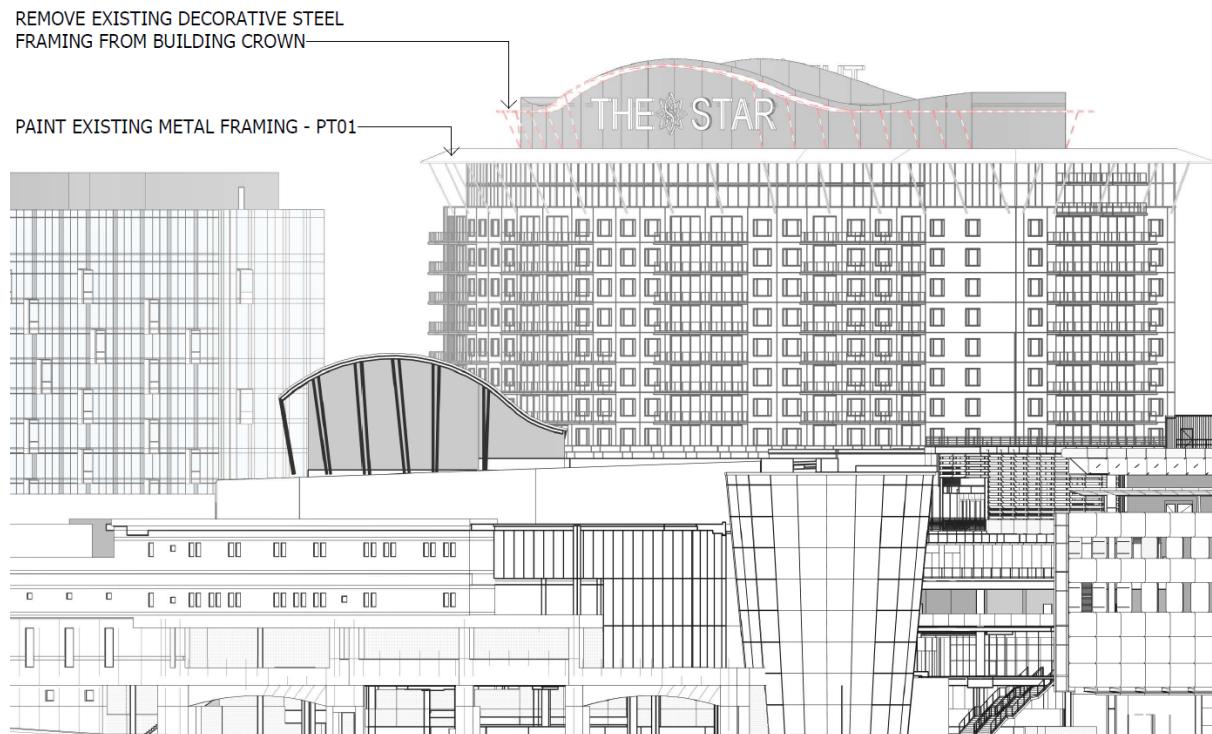


Figure 7 | Decorative steel framing to be removed from the crown of The Star Grand Residences (Source: Modification Application)

3 Statutory context

3.1 Scope of modifications

The Department has reviewed the scope of the modification application and considers it can be characterised as a modification involving minimal environmental impacts as the proposal:

- would not increase the environmental impacts of the project as approved
- is substantially the same development following the project's transition to SSD
- would not disturb any areas outside the site.

Therefore, the Department is satisfied the proposed modification is within the scope of section 4.55(1A) of the EP&A Act and does not constitute a new development application. Accordingly, the Department considers that the application should be assessed and determined under section 4.55(1A) of the EP&A Act rather than requiring a new development application to be lodged.

3.2 Consent authority

The Minister for Planning (Minister) is the consent authority under section 4.5(a) of the EP&A Act. However, the Director, Key Sites Assessments may determine the application under delegation as:

- a political disclosure statement has not been made
- there are less than 15 public submissions in the nature of objection
- Council does not object.

3.3 Mandatory matters for consideration

The following are relevant mandatory matters for consideration:

- Section 4.15(1A) of the EP&A Act, including any environmental planning instruments or proposed instruments
- EP&A regulation
- likely impacts of the modification application
- suitability of the site
- any submissions
- the public interest
- the reasons for granting approval for the original application.

The Department has considered all of these matters in its assessment of the proposal. The Department has also considered the relevant matters in **Section 5** and **Appendix B**.

3.4 Part 3A transition to State significant development

This project was originally approved under the former section 75J of the EP&A Act and was a transitional Part 3A project under Schedule 2 of the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017* (EP&A (ST&OP) Regulation).

Following amendments to the EP&A Act and the commencement of the associated EP&A (ST&OP) Regulation on 1 March 2018, the power to modify Part 3A project approvals under former section 75W is no longer available for modifications submitted after 1 March 2018. To modify a transitional Part 3A project approval, the Minister can declare the development to be SSD by order under clause 6 of Schedule 2 of the EP&A (ST&OP) Regulation. If a declaration is made the project approval becomes a development consent which can be modified under Part 4 of the EP&A Act if it meets the relevant criteria.

On 15 January 2020, the Director, Key Sites Assessments (as delegate of the Minister), made an order under clause 6 of Schedule 2 to the EP&A (ST&OP) Regulation declaring the development the subject of project approval to be SSD. The order was published in the NSW Government Gazette on 24 January 2020 and took effect from that date.

The effect of this order is that the project approval is taken to be a development consent under Part 4 of the EP&A Act for the carrying out of the development from its scope as it existed from its transition from Part 3A to SSD.

Objects of the EP&A Act

The Minister or delegate must consider the objects of the EP&A Act when making decisions under the Act. The Department is satisfied the proposed modification is consistent with the objects of the EP&A Act.

4 Engagement

4.1 Department's engagement

The Department exhibited the modification application from 23 September 2021 to 6 October 2021 (14 days) on the Department's website. The Department also engaged with Council and Transport for New South Wales (TfNSW) and notified surrounding landowners.

4.2 Agency submissions

The Department received submissions from Council and TfNSW. A link to the submissions is provided in **Appendix A** and the key issues raised are summarised in **Table 2**.

Table 1 | Summary of Agency Submissions

| Council / Government Agency | Comments |
|--------------------------------|--|
| Council | <ul style="list-style-type: none">Noted the application was reviewed by Council staff and raised no objection and did not provide any additional comments. |
| TfNSW | <ul style="list-style-type: none">Does not object and recommended conditions for construction and pedestrian management. |

4.3 Public submissions

The Department received three public submissions in response to the public exhibition comprising:

- one objection from a member of the public
- two objections from special interest groups.

Issues raised in submissions received from members of the public and public interest groups are summarised in **Table 3**.

Table 2 | Summary of issues raised in public and interest group submissions

| Issue/Comment | Comments |
|---------------|---|
| Noise impacts | <ul style="list-style-type: none">Cumulative noise impacts from gaming machines in the UGAs inside nearby residential premisesNoise from PA announcements and banging doorsThe application is inconsistent with existing noise management conditionsThe existing and noise management measures are ineffectiveRequest to install glazing around UGAs fronting Jones Bay Road and enclose of the level 3 pre-event spaceRequest to enclose balcony areas unrelated to the modification application or UGAsRequest for additional and permanent live noise monitoring to be installed |

- Request for a revised noise assessment methodology that considers the age and materials of nearby affected buildings
- Concerns the expanded level 17 balconies will generate additional noise from external speakers, amplified music and operational hours
- Operational impacts beyond the modification application including patron noise, traffic noise and maintenance work

| | |
|----------------|---|
| Air Quality | <ul style="list-style-type: none">• Impacts of outdoor smoking areas on Jones Bay Road |
| Social impacts | <ul style="list-style-type: none">• Concerns regarding adverse social impacts from the extension of gambling facilities |

4.4 Response to submissions

On 16 December 2021, the Applicant provided a Response to Submissions (RtS). The RtS was made available on the Department's website.

The RtS provided a response to the submissions received. The RtS initially sought to expand the scope of the application by extending the trial period for the use of music and external speakers under Condition F1A to align with the proposed changes to the operational trial periods for the UGAs. This element was withdrawn from the application by the Applicant on 20 December 2021.

On 3 February 2022, the Applicant advised it had reviewed the development consent following its advice that the Pirrama Road Entertainment Deck was removed as part of MOD 14 and requested amendments to several conditions to remove reference to this space from the approval.

5 Assessment

In assessing the modification application, the Department has considered:

- the amended modification application and its supporting documents
- the Environmental Assessment and conditions of approval of the original development (as modified)
- all submissions received on the application
- relevant environmental planning instruments, policies and guidelines
- the requirements of the EP&A Act.

The key issue associated with the proposal is noise impacts. Other issues are addressed in **Section 5.2**.

5.1 Noise impacts

The Star Casino operates 24 hours / 7 days in a busy tourism and entertainment area with nearby residential dwellings comprised of apartments and attached terraces. The Department has considered the noise impacts of the proposed extension of trial periods and expansion of balconies below.

Extension of trial periods for outdoor gaming areas and terraces

The proposal seeks approval to extend the trial period for 24/7 operation of three UGAs and balconies servicing VIP gaming rooms in the Darling Hotel next to Union Street for a further two years (**Table 3**). These spaces are managed by Condition F3 and include:

- the Level 3 Sovereign Room UGA fronting Pirrama Road and Pyrmont Street (**Figure 9**)
- the Level 2 Oasis UGA fronting Pyrmont Street (**Figure 10**)
- the Level 1 UGA fronting Pirrama Road (**Figure 11**)
- balconies areas serving Darling Hotel VIP gaming rooms adjacent to Union Street.

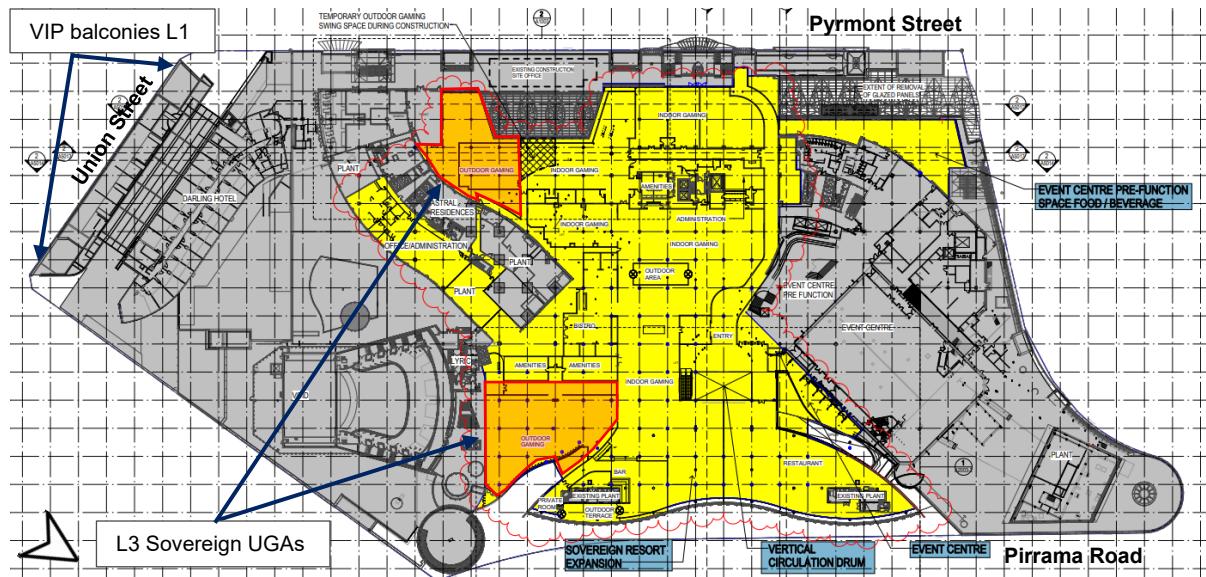


Figure 8 | Level 3 Sovereign Room UGAs and outdoor terrace on Pirrama Road (Source: MOD 14)

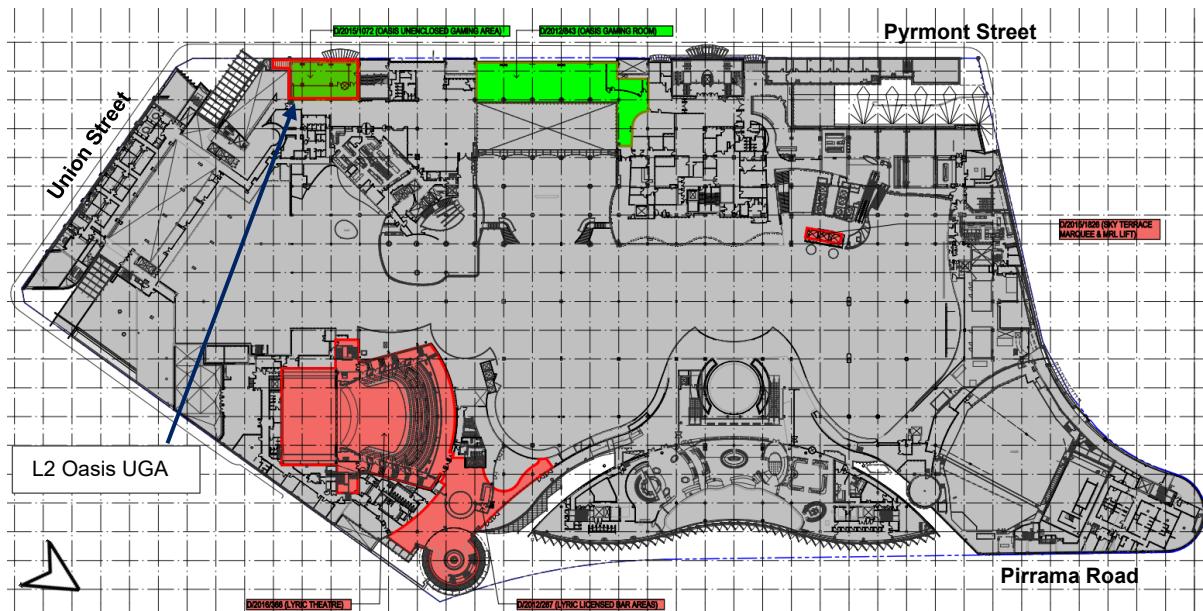


Figure 9 | Level 2 Oasis UGA (Source: MOD 14)

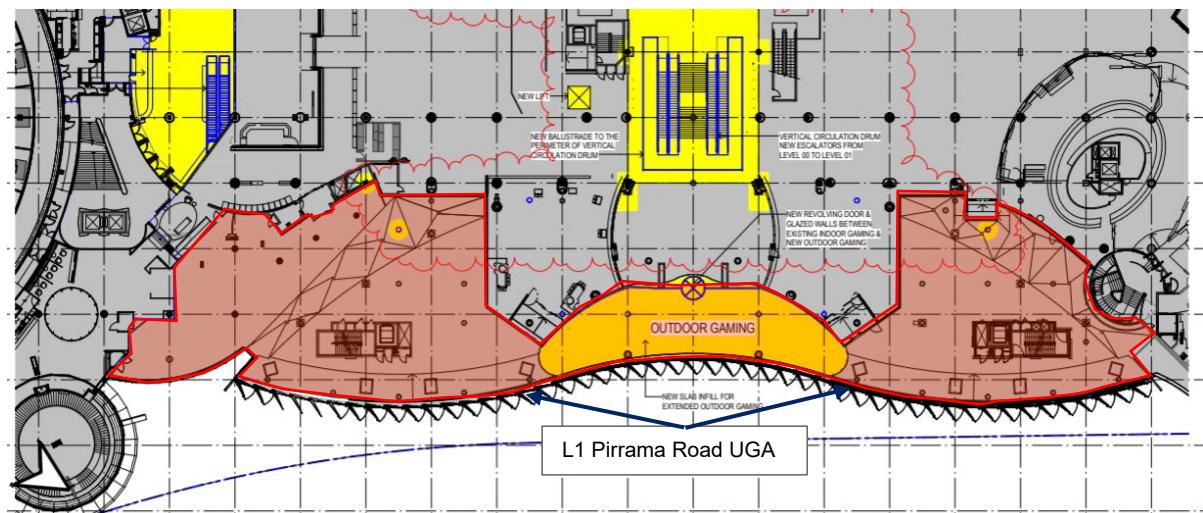


Figure 10 | Location of Level 1 Pirrama Road UGA (Source: MOD 14)

Table 3 | Summary of outdoor gaming areas and trial periods under Condition F3

| Location | Base hours of operation | Trial for 24/7 use and status | Proposed extension |
|--|--|--|--|
| Level 3 Sovereign Room outdoor gaming areas fronting Pirrama Road and Pyrmont Street | 7AM to 12 Midnight Mondays to Sundays inclusive | Two years from the commencement of use. The occupation certificate for the space commenced on 30 March 2020 – Trial period ceased on 30 March 2022 | Two years from the date of determination of MOD 16 |
| Level 2 Oasis outdoor gaming area fronting Pyrmont Street | 7AM to 12 Midnight Mondays to Sundays inclusive | Two years starting from the determination of MOD 14 on 4 October 2017 – Trial period ceased on 4 October 2019 | |
| Level 1 outdoor gaming areas fronting Pirrama Road | | | |

| | | |
|---|------------------------------------|---|
| Balconies serving private gaming rooms adjacent to Union Street | 10AM to 10PM Mondays to Sundays | Two years starting from the determination of MOD 14 on 4 October 2017 |
|---|------------------------------------|---|

The Applicant provided an acoustic compliance report which assesses the performance of the UGAs (and other entertainment spaces unrelated to this application) during the previous trial period. The acoustic compliance report measures the noise impact of a range of internal and outdoor areas across the site on surrounding properties (**Figure 8**) and concludes the trial period locations and their use can comply with the noise levels under Condition F5 at all assessed external locations.

Council raised no noise concerns with the proposed extension of trial periods.

Public submissions the following concerns regarding the proposed two-year UGA trial period extension:

- the volume of gaming machines and their audibility at nearby dwellings
- compliance with existing conditions to reduce gaming machine noise at certain hours and during entertainment events such as New Years Eve, Lunar New Year and Melbourne Cup
- the effectiveness of the complaints handling procedure under the development consent.

Public submissions recommended that:

- gaming machines across the site be turned to half volume from 10PM to 8AM
- the Jones Bay Road pre-event space be fully enclosed
- an alternative noise assessment methodology is implemented to consider the age and layout of residential buildings near the site
- permanent noise monitoring is installed on the adjacent footpaths to monitor compliance.

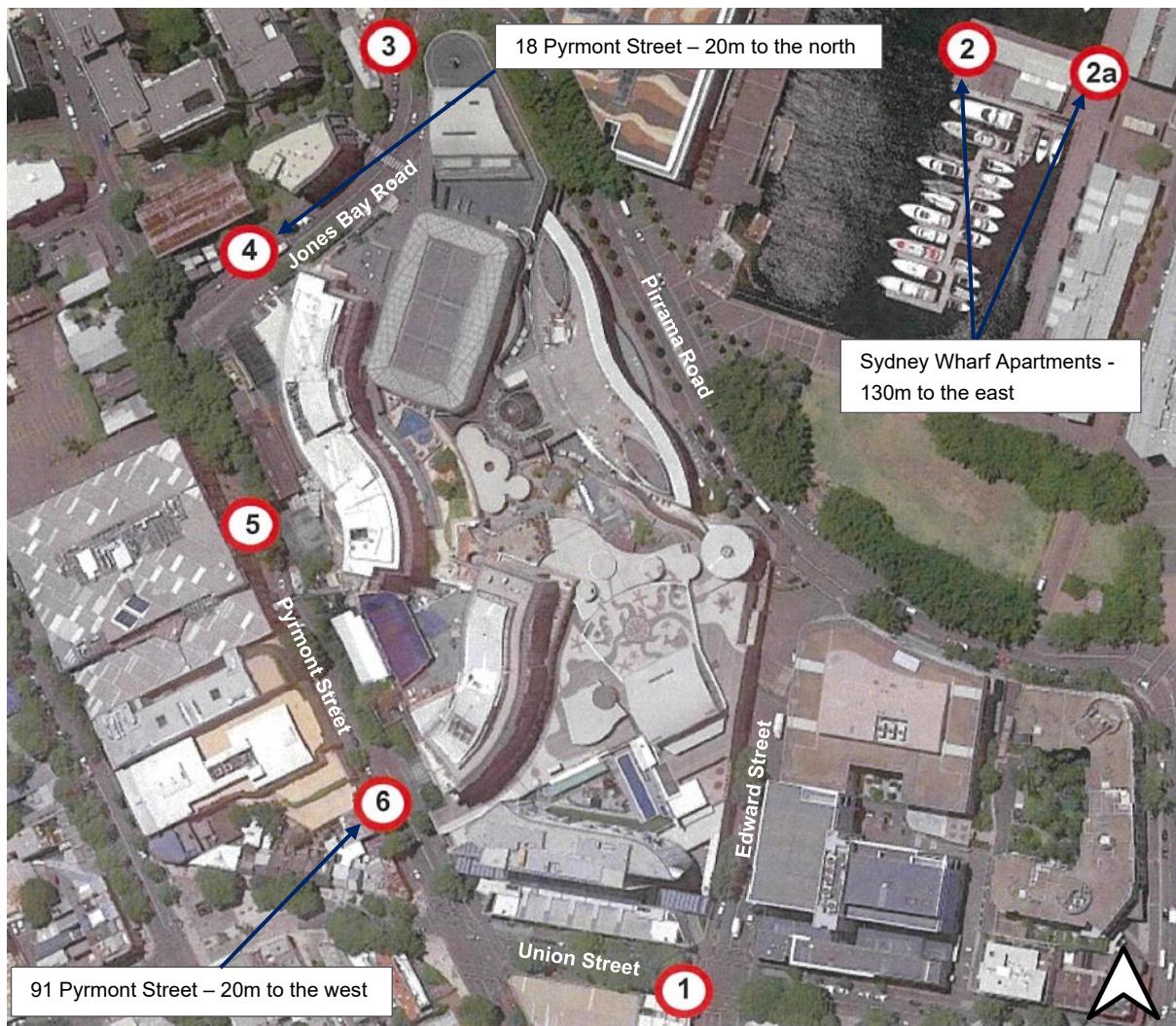


Figure 11 | External receiver locations assessed in the acoustic compliance report (Source: Modification Application)

In response to the concerns raised in public submissions, the Applicant has advised:

- all gaming machines located in the UGAs are set at their lowest volume on a 24/7 basis
- music is turned to half volume from 12AM midnight to 7AM as required by existing Condition F1D
- the Jones Bay Road pre-event space is already a fully enclosed space
- the acoustic compliance report has been prepared in accordance with the conditions of the development consent and includes conservative assumptions in its assessment including a 10dB reduction from inside to outside at an open window (which is considered standard industry practice) and excluding consideration of intervening barriers to receivers
- the age and materials of nearby residential buildings is not relevant as the noise assessment adopts the nearest and potentially most affected external location e.g. at a window in assessing compliance with Condition F5.

The Applicant also provided details of 35 complaints received by The Star and Council between early 2019 and September 2021. The Applicant notes none of these complaints relate to music and gaming machine noise from areas subject to this application. The complaints received related to construction, vehicle and mechanical plant noise which are unrelated to the proposed modification.

The Department has carefully considered the concerns raised in submissions, the acoustic compliance report, the complaints received between 2019 and 2021 and the Applicant's response to submissions. On balance, the Department is satisfied the two-year operational trial extension to the UGAs and terraces is acceptable as:

- existing conditions of consent include management and mitigation measures to appropriately minimise noise impact from the 24-hour operation of the UGAs including:
 - physical separation and isolation from indoor gaming areas via automatic closing doors
 - gaming machine volume must be turned to half volume between 12am and 7am
 - the Oasis UGA is limited to 91 patrons under Condition F13
- the acoustic compliance report provides a conservative estimate of the cumulative noise emissions from the site and its entertainment and patron spaces and demonstrates the operation of the expanded trial periods would not compromise the ability of the development to comply with Condition F5
- the complaints received between 2019 and 2021 predominantly raise concerns about construction, vehicle and mechanical plant noise, rather than the operation of UGAs subject to trial periods
- the Jones Bay Road pre-event space, although not subject to this proposal is fully enclosed to minimise noise impacts and is not subject to a trial period.

The Department therefore supports the proposed two-year extension and reconciled end date of the 24/7 trial period of the UGAs and outdoor terraces will create a clearer compliance framework. It recommends the complaints handing process required by condition F1G is amended to require a register of complaints and actions taken to resolve the issues be provided to the Department every six months.

Expansion of balconies

The proposal seeks to expand balconies connected to indoor gaming on Level 17 of The Star Grand Hotel.

The Applicant provided an acoustic statement which assessed the noise emissions from additional patrons using the expanded balconies on Level 17 of the Grand Star Hotel. The statement concluded noise from the expanded balcony areas can comply noise goals at nearby sensitive receivers between 12 midnight and 7AM under Condition F5 (**Table 4**). This is subject to the doors leading out to the balconies being kept closed except to allow the patrons to enter and exit the expanded balcony areas and the number of patrons being limited to those assessed (maximum of 76 people).

Public submissions raised concern the level 17 balcony upgrades may result in increased noise from additional patrons and the use of outdoor speakers and music.

In response, the Applicant notes that no external speakers or amplified music is proposed on the level 17 balcony areas.

Table 4 | Predicted noise levels from expanded balconies from 12 midnight to 7 AM

| Location | Description | Octave band center frequency – hz (dBZ) | | | | | | | | |
|---|-------------------|---|----|-----|-----|-----|----|----|----|----|
| | | 31.5 | 63 | 125 | 250 | 500 | 1k | 2k | 4k | 8k |
| R1 – Level 4, Sydney Wharf Apartments | Predicted levels | 0 | 0 | 15 | 20 | 24 | 18 | 12 | 0 | 0 |
| | Inaudibility goal | 48 | 39 | 37 | 35 | 32 | 29 | 23 | 12 | 7 |
| R2 – Level 8, 2 Jones Bay Road | Predicted levels | 0 | 0 | 27 | 32 | 37 | 31 | 27 | 21 | 10 |
| | Inaudibility goal | 48 | 47 | 44 | 40 | 40 | 38 | 32 | 27 | 18 |
| R3 – Level 3, rear of 84 Harris Street | Predicted levels | 0 | 0 | 25 | 31 | 35 | 29 | 24 | 16 | 0 |
| | Inaudibility goal | 48 | 47 | 44 | 40 | 40 | 38 | 32 | 27 | 18 |
| R4 – Level 1, 91 Pyrmont Street | Predicted levels | 0 | 0 | 19 | 25 | 31 | 25 | 20 | 12 | 0 |
| | Inaudibility goal | 48 | 45 | 42 | 39 | 35 | 35 | 35 | 30 | 21 |

The Department has considered the concerns raised in submissions about noise impacts from the expansion of balconies on level 17, and is satisfied the expanded balconies will not increase noise impacts at surrounding receivers as:

- the Applicant's acoustic statement demonstrates that noise levels will be significantly lower than the inaudibility goal at the nearest residential properties
- the balconies are intended to be used to improve amenity for guests with a maximum patron limit of 76 people, distributed across the balconies which will ensure noise levels inaudibility noise goal can be met
- the use of external speakers and music is not proposed.

The Department recommends conditions to set patron limits for the upgraded balconies and require the Applicant to operate the space, in accordance with the recommendations of the noise assessment.

Conclusion

The Department has carefully reviewed the Applicant's compliance report for the UGAs, the noise statement for expanded balcony areas and the concerns raised in public submissions.

The Department considers the potential acoustic impacts from a further two-year extension to the operational trial periods and expanded balcony areas are acceptable as the acoustic compliance report demonstrates the UGAs can comply with existing noise criteria, existing conditions manage these spaces, no new UGA space is proposed and the trial extension will provide a streamlined

compliance framework. The Department is also satisfied the expanded balconies would not result in additional noise impacts, subject to the space being used in accordance with the Applicant's acoustic recommendations.

On this basis, the Department recommends Condition F3 is amended to grant the two-year trial period from the date this application. Amended and new conditions are recommended to:

- require the Applicant to provide a complaints register to the Department on a bi-annual (six monthly) basis so that substantiated complaints from the public are known
- amend the description of the UGA trial areas in Condition F3 from 'outdoor gaming areas' to 'unenclosed gaming areas'
- require the implementation of patron limits and operational requirements of the expanded Level 17 balconies.

5.2 Other issues

The Department has assessed other potential impacts associated with the proposal in **Table 5**.

Table 5 | Assessment of other issues

| Issue | Findings | Recommendations |
|---------------------------|---|---|
| Expansion of balconies | <ul style="list-style-type: none"> • The application seeks to expand balconies on level 17 of The Star Grand Hotel (Section 2). • The Applicant notes the balconies would be enclosed by balustrades less than 1.4m high and will not increase the gross floor area (GFA) on-site. • No concerns were raised by Council. Public submissions raised concern about the expansion of gaming facilities. • The Department notes the proposed expansion of balconies would not expand existing and approved gaming facilities on-site and supports these elements as: <ul style="list-style-type: none"> ◦ they will provide improved weather protection and provide great connectivity ◦ the new balconies spaces and supports would not be readily seen from street level or from more distant vantage points around Darling Harbour and Pyrmont area ◦ they would not contribute to additional GFA on-site ◦ they maintain the design excellence qualities of the existing buildings as the new balcony infill areas, glazing, balustrades and screens in a bronze finish are consistent with the existing balconies. • Conditions are recommended to include the proposed plans into the development consent. | Conditions are recommended to incorporate the amended plans into the development consent. |
| Operational noise impacts | <ul style="list-style-type: none"> • Public submissions raised concern regarding noise impacts from site operations that fall outside of the UGAs including: <ul style="list-style-type: none"> ◦ the use of the pre-event function space on Level 3 fronting Jones Bay Road, ◦ traffic noise along Jones Bay Road ◦ patron noise when leaving the site ◦ maintenance works in the early morning (i.e. leaf blowers) ◦ noise from a gaming space on level 1 fronting Jones Bay Road, known as the northwest gaming works. | No additional conditions recommended. |

| Issue | Findings | Recommendations |
|-------------------------|--|---------------------------------------|
| | <ul style="list-style-type: none"> In response, the Applicant advised it is open to installing additional signage to encourage patrons to respect residential amenity when leaving the site. The Department acknowledges the concerns raised in submissions, however, notes these issues relate to locations outside of the site for activities and are unrelated to the location and/or operation of the UGAs subject to this proposal. The Department also notes the level 1 northwest gaming works was approved by Council (DA 2015/1515) and incorporated into MP08_0098 in MOD 14. The space is already approved to operate 24/7 but is not included in any of the trial periods for UGAs under Condition F3, nor are the use of external speakers permitted under Condition F1. The Department is satisfied that Condition F10 of the existing approval includes appropriate complaints handing and incident management procedures as part of the site wide operational management plan. The Department also supports the Applicant installing additional signage to minimise noise impacts which could be progressed by the Applicant under the schedule of minor works contained in the existing development consent. | |
| Air quality | <ul style="list-style-type: none"> Public submissions raised concern regarding air quality impacts with a smoking balcony fronting Jones Bay Road. In response, the Applicant has advised they are open to installing additional signage in this location to be considerate of nearby dwellings. The Department notes existing condition F12 requires the development to comply with the POEO Act and Regulations regarding gaseous, vapour, dust or other airborne emissions. The Department also notes the proposal does not seek to modify the use or operation of the balcony fronting Jones Bay Road, however, it supports the Applicant in installing additional signage to assist in patrons being mindful of impacts to nearby dwellings. This signage could be progressed by the Applicant under the schedule of minor works contained in the development consent. | No additional conditions recommended. |
| Social impacts | <ul style="list-style-type: none"> Public submissions raised concern of anti-social behaviour from expanded gambling facilities. The Applicant advised security patrols take place around the site during higher busier times to monitor anti-social behaviour which includes escalating matters to NSW Police where required. The Department has considered the concerns raised in submissions, however, notes the proposal would not increase the GFA within the site, expand gambling facilities or introduce new uses which would alter the social impacts of the development. The Department is therefore satisfied that the existing conditions of consent (F1G, F10 and F14) and licences under the <i>Casino Control Act 1992</i>, <i>Casino Control Regulations 2009</i> and <i>Security Industry Act 1997</i> adequately control safety and social issues associated with the operation of The Star. | No additional conditions recommended. |
| Construction management | <ul style="list-style-type: none"> TfNSW recommended construction management conditions for new works. The Department considers existing condition B19, amended as part of MOD 15 in response to TfNSW advice, can adequately manage construction traffic and pedestrian impacts. | No additional conditions recommended. |

| Issue | Findings | Recommendations |
|---------------------------------|---|--|
| Pirrama Road entertainment deck | <ul style="list-style-type: none"> The Department therefore does not consider that additional conditions are necessary. The Applicant proposes to remove reference to the Level 3 Pirrama Road entertainment deck from the consent as it was demolished as part of works approved in MOD 14. The Department considers this request is appropriate as it will simplify the consent and remove redundant conditions in relation to the operation of the former entertainment deck. The Department recommends Conditions F1, F1A, F1E and F6 are amended to delete the reference to the entertainment deck and conditions F1C and F7 which relate solely to the operation of the entertainment deck are deleted in their entirety. | Amend Conditions F1, F1A, F1E and F6 and delete Conditions F1C and F7. |

6 Evaluation

The Department has reviewed the proposed modification and supporting information in accordance with the relevant requirements of the EP&A Act. The Department's assessment concludes the proposed modifications are acceptable as:

- the extended trial periods and conditions for the UGAs and outdoor terraces can comply with the cumulative noise requirement for the site and will create a clearer and more robust compliance framework by aligning the trial end periods
- the Applicant has demonstrated that the operation of the UGAs has complied with the existing noise limits of the consent
- the external changes, including expanded balconies and changes to external decorative steel framing, will maintain the design excellence qualities of the building and not result in any material environmental impacts
- it complies with the relevant statutory provisions remains consistent with relevant EPIS and the strategic planning context
- it is substantially the same development as it existed at the time of MP08_0098 MOD 14
- on balance the proposed modifications are in the public interest.

7 Recommendation

It is recommended that the Director, Key Sites Assessments, as delegate of the Minister:

- **considers** the findings and recommendations of this report
- **determines** that the application MP08_0098 MOD 16 falls within the scope of section 4.55(1A) of the EP&A Act
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to approve the modification
- **agrees** with the key reasons for approval listed in the draft notice of decision
- **modify** the consent MP08_0098
- **signs** the attached approval of the modification (**Appendix D**).

Prepared by:



Thomas Piovesan
Senior Planner
Key Sites Assessments

Recommended by:



Amy Watson
Team Leader
Key Sites Assessments

8 Determination

The recommendation is **Adopted / Not adopted** by:

 17/3/2022

Anthony Witherdin

Director

Key Sites Assessments

as delegate of the Minister for Planning

Appendices

Appendix A – List of referenced documents

The following supporting documents and supporting information to this assessment report can be found on the Major Project's website as follows:

- Modification Report
- Response to Submissions
- Submissions

<https://www.planningportal.nsw.gov.au/major-projects/project/42456>

Appendix B – Statutory Considerations

To satisfy the requirements of the EP&A Act, the Department's assessment of the proposed modification has given detailed assessment to a number of statutory requirements. These include:

- The matters under section 4.55(1A) of the EP&A Act
- The matters listed under Section 4.15(1) of the EP&A Act, including applicable EPIs and regulations.

The Department has considered these matters in its assessment of the proposal in **Tables 6 and 7**.

Table 6 | Consideration of 4.55(1A) of the EP&A Act

| Section 4.55(1A) | Assessment |
|--|--|
| a) the proposed modification is of minimal environmental impact | <p>Section 5 of this report provides an assessment of the impacts associated with the modification application.</p> <p>The Department is satisfied the proposed changes will have minimal environmental impact as they consist of an extension to trial periods for existing UGAs and external changes at the upper floors of existing towers.</p> |
| b) the development to which the consent as modified relates is substantially the same development for which consent was originally granted and before that consent as originally granted was modified. | <p>The Department is satisfied the proposed modifications would result in the development being substantially the same as the development that existed following the transition of MP08_0098 to SSD in accordance with Schedule 2, Clause 3BA(6) of the <i>Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017</i>.</p> <p>No changes to existing uses or floor spaces is proposed.</p> |
| c) the application has been notified in accordance with the regulations. | <p>The modification application has been notified in accordance with the EP&A Regulations. Details of the notification are provided in Section 4.1 of this report.</p> |

d) any submission made concerning the proposed modification has been considered.

Details of the submissions received during the notification period are provided at Section 4.2 of this report.

Table 7 | Consideration of the matters listed under Section 4.15(1) of the EP&A Act

| Matter | Comment |
|---|--|
| (a)(i) any environmental planning instrument | The site is zoned B3 under the Sydney LEP 2012. The proposed modifications to the trial periods or external works are permissible with consent. |
| (a)(ii) any proposed instrument | Not applicable. |
| (a)(iii) any development control plan | Under clause 11 of the SRD SEPP, Development Control Plans do not apply to SSD. |
| (a)(iiia) any planning agreement | Not applicable. |
| (a)(iv) the regulations | The modification application satisfactorily meets the relevant requirements of the <i>Environmental Planning and Assessment Regulations 2000</i> , including the procedures relating to applications (Part 6), notification (Part 6, Division 6), and fees (Part 15, Division 1AA) (refer to Section 4). |
| (b) the likely impacts of that development including environmental impacts on both the natural and built environments, and social and economic impacts in the locality, | The Department considers the likely impacts of the proposed modification are acceptable and have been appropriately addressed (refer to Section 5 of this report). |
| (c) the suitability of the site for the development | The site is suitable for the development. |
| (d) any submissions | The Department has considered the submissions received (refer to Section 4 and 5 of this report). |
| (e) the public interest | The Department considers the proposed modification to be in the public interest. |
| Reasons given by the consent authority for the grant of the consent that is sought to be modified. | The Department has considered the reasons given by the consent authority for the grant of the consent in its assessment in Section 5 . |

Environmental Planning Instruments

To satisfy the requirements of section 4.15(1)(a)(i) of the EP&A Act, the following EPI's were considered as part of the assessment of the modification application:

- *State Environmental Planning Policy (State and Regional Development) 2011*
- *Sydney Local Environmental Plan 2012*
- *State Environmental Planning Policy No 64 – Advertising and Signage*
- *State Environmental Planning Policy (Infrastructure) 2007*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (deemed SEPP)*

- *Sydney Regional Environmental Plan No 26 – City West*
- *State Environmental Planning Policy No. 55 – Remediation of Land*
- *Draft State Environmental Planning Policy – Remediation of Land*

The Department undertook a comprehensive assessment of the application against the relevant EPIs in its original assessment. The Department has considered the above EPIs and is satisfied the modifications do not result in any inconsistency with these EPIs.

The Department has considered the matters of design excellence under the Sydney LEP in **Table 8** below.

Table 8 | Consideration of clause 6.21 under the Sydney LEP 2012

| Assessment Criteria | Comments |
|---|--|
| (a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved, | The removal of steel framing on the crown of The Star Grand Residences would not impact the design of the existing buildings. |
| (b) whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain, | The removal of decorative steel framing and expansions of the Level 17 balconies are considered minor and would not significantly impact the external appearance of the development. |
| (c) whether the proposed development detrimentally impacts on view corridors, | The proposed works would not impact view corridors. |
| (d) how the proposed development addresses the following matters— (i) the suitability of the land for development, (ii) the existing and proposed uses and use mix, (iii) any heritage issues and streetscape constraints, | The proposed works remain suitable for the site, are consistent with the existing uses on-site and would not result in any heritage or streetscape impacts. |
| (iv) the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form, | The proposed works would not impact the relationship between the existing towers on-site. |
| (v) the bulk, massing and modulation of buildings, | The proposed works would not impact the massing and modulation of the existing buildings. The proposed works would simplify the crown of The Star Grand Hotel by removing decorative steel framing from the tower. |
| (vi) street frontage heights, | The proposed works do not involve any changes to street frontage heights. |
| (vii) environmental impacts, such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity, | The proposed works would not result in any overshadowing or solar access impacts. Visual privacy would be maintained to and from the site. |
| (viii) the achievement of the principles of ecologically sustainable development, | The works would not impact the existing on-site ESD initiatives. |
| (ix) pedestrian, cycle, vehicular and service access and circulation requirements, including the permeability of any pedestrian network, | The application does not impact any pedestrian, cyclist or vehicular circulation requirements or the surrounding pedestrian network. |

| | |
|--|---|
| (x) the impact on, and any proposed improvements to, the public domain, | The works will not impact the public domain. |
| (xi) the impact on any special character area, | Not applicable. The site is not located in a special character area. |
| (xii) achieving appropriate interfaces at ground level between the building and the public domain, | The modifications would not adversely affect the interface of the site at ground level. |
| (xiii) excellence and integration of landscape design. | The modifications would not impact landscaping design within the site. |

Appendix C – Previous modifications to the consent

Prior to its transition to SSD, MP08_0098 had been modified 14 times. These modifications are summarised in **Table 9**.

Table 9 | Summary of MP08_0098 Modifications

| Mod No. | Summary of Modifications | Consent Authority | Type | Decision date |
|---------|---|--------------------|------|---------------------------|
| 1 | 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. | Executive Director | 75W | Approved 3 March 2009 |
| 2 | Modification of Condition B2 to clarify the approved hotel height, and exclude lift overruns from the height limit. | Director General | 75W | Approved 25 March 2009 |
| 3 | 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 easement tunnel easement. | Director General | 75W | Approved 6 April 2009 |
| 4 | Modifications to the façade design, consolidation of the porte cochère, 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. | Minister | 75W | Approved 1 December 2009 |
| 5 | Modifications to Conditions A2, A3 and D11 to alter the general project arrangement, reference to revised BCA capability statement, and extend the hours for construction to 3:00pm on Saturdays | Director | 75W | Approved 20 July 2010 |
| 6 | Approved 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 Level 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. | Director | 75W | Approved 9 September 2009 |
| 7 | Approved the construction of the MUEF on the Level 4 rooftop terrace area. | IPC | 75W | Approved 29 July 2011 |

| Mod No. | Summary of Modifications | Consent Authority | Type | Decision date |
|---------|---|-------------------------|----------|---------------------------|
| 8 | Partial enclosure of the existing outdoor terrace adjoining the Sovereign Room on Level 3. | Director | 75W | Approved 17 November 2010 |
| 9 | Relocation of the night club to the southern end of Level 2 and relocation of the restaurant to the northern end of Level 2. | Deputy Director General | 75W | Approved 13 October 2011 |
| 10 | 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. | Deputy Director General | 75W | Approved 16 December 2011 |
| 11 | 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. | Deputy Director General | 75W | Approved October 2012 |
| 12 | Amendment of Condition F1 to allow for the installation and use of speakers on Level 1 Pirrama Road outdoor gaming area and Level 3 Pirrama Road Entertainment Deck, and amend Condition F3(2) to allow for permanent 24-hours 7 days use of the Level 1 Pirrama outdoor gaming area. | Secretary | 75W | Approved 14 October 2014 |
| 13 | A proposed new hotel and residential tower and associated alterations and additions involving both internal and external work. | IPC | 75W | Refused 20 November 2019 |
| 14 | Design changes including GFA increase, consolidation of existing approvals and plans, minor works schedule. | Executive Director | 75W | Approved 4 October 2017 |
| 15 | Signage, external and internal design alterations. | Director | 4.55(1A) | Approved 9 November 2021 |

Appendix D – Notice of modification

- MP08_0098 MOD 16:

<https://www.planningportal.nsw.gov.au/major-projects/project/42456>

Appendix E – Consideration of public submissions

A summary of the Department's consideration of the issues raised in submissions is provided in **Table 10**.

Table 10 | Department's consideration of key issues raised in public submissions

| Issue | Consideration |
|---------------------|---|
| Noise impacts | <p><i>Assessment</i></p> <ul style="list-style-type: none"> The Applicant's assessment concluded noise emissions from patrons using the expanded balcony areas can comply with the inaudibility noise goal at all nearby receivers, subject to operational conditions. Outdoor speakers or music is not proposed for the expanded balconies. No physical enclosure of glazing works are proposed at the UGAs of Jones Bay Road. The Applicant's acoustic compliance report also concluded all UGAs subject to the operational trial period can meet the inaudibility target at all nearby receivers as part of the cumulative noise assessment under the development consent. The Department has carefully considered the Applicant's supporting noise assessment and the concerns raised in public submissions and is satisfied the new trial periods and balcony areas will not result in adverse noise impacts beyond the approved operation. The Department is satisfied the Applicant's assessment demonstrates noise emissions from UGAs under Condition F3 can comply with the requirements of MP08_0098 at the most potentially impacted external locations. Other operational noise concerns including the use of leaf blowers, taxi noise and patron noise as they leave the site are beyond the scope of the modification application, however the Applicant has indicated it would install additional signage to encourage patrons to be considerate of neighbouring properties. The Department notes the approved and constructed level 3 pre-function space is enclosed with inoperable glazing to minimise impacts to residents along Jones Bay Road. <p><i>Recommended conditions:</i></p> <ul style="list-style-type: none"> Require the Applicant to operate the expanded balcony areas in accordance with the recommendations of the noise statement. Implement updates to complaints handling to direct complaints received to the Department on a bi-annual (six monthly) basis. |
| Air quality impacts | <p><i>Assessment</i></p> <ul style="list-style-type: none"> Public submissions raised concern regarding air quality impacts with a smoking balcony fronting Jones Bay Road. While the proposal does not relate to smoking areas along Jones Bay Road, the Applicant has advised they are open to installing additional signage in this location to be considerate of nearby dwellings. The Department notes existing condition F12 requires the development to comply with the POEO Act and Regulations regarding gaseous, vapour, dust or other airborne emissions. The Department also notes the proposal does not seek to modify the use or operation of the balcony fronting Jones Bay Road, however, supports the Applicant in installing additional signage to assist in patrons being mindful of impacts to nearby dwellings. This signage could be progressed by the Applicant under the schedule of minor works contained in the existing development consent. |
| Social Impacts | <ul style="list-style-type: none"> Submissions raised concern anti-social behaviour from expanded gambling facilities. |

- The proposal seeks to expand balcony areas on level 17 of The Star Grand Hotel and extend the operation trial period for UGAs. No new or expanded gaming facilities are proposed.
- The Applicant has advised security patrols take place around the site during higher busier times to monitor anti-social behaviour.
- The Department is satisfied the proposal would not increase the GFA within the site, expand gambling facilities or introduce new uses which would alter the social impacts of the development.
- The Department is therefore satisfied that the existing conditions of consent (F1G, F10 and F14) and licences under the *Casino Control Act 1992*, *Casino Control Regulations 2009* and *Security Industry Act 1997* adequately control safety and social issues associated with the operation of development. On this basis, the Department considers the proposal would not result in additional social impacts beyond those previously assessed by MOD 14.
