

16 February 2022

2210682

Mr Michael Cassel
Secretary
NSW Department of Planning, Industry & Environment
12 Darcy Street,
Parramatta NSW 2150

Attention: Amy Watson; Team Leader, Key Sites Assessments

SECTION 4.55(1A) MODIFICATION APPLICATION 17 – “MOD 17” The Star Casino – Former Part 3A Approval MP08_0098

Dear Amy,

This application has been prepared by Ethos Urban on behalf of The Star Entertainment Group Limited (The Star), pursuant to section 4.55(1A) of *the Environmental Planning & Assessment Act 1979* (the EP&A Act) to modify Development Consent former Part 3A Approval MP 08_0098 relating to 80 Pyrmont Street, Pyrmont (the site).

This application proposes internal and external modifications which include:

- Conversion of 410m² (out of a total 10,800m² of existing Level 3 Sovereign Room space currently not in operation to an unenclosed gaming area (UGA);
- New outdoor green wall located adjacent to the UGA;
- Minor alterations to existing kitchen exhaust fan located adjacent to the UGA to ensure compliance; and
- Clarification of trial periods related to the use of speakers and music in the following areas:
 - Level 1 Pirrama Road Outdoor Gaming Areas;
 - Oasis Outdoor Gaming Area fronting Pyrmont Street; and
 - Sovereign Level 3 Outdoor Gaming Areas within the site and those fronting Pirrama Road and Pyrmont Streets.

This application identifies the consent, describes the proposed modifications and provides an assessment of the relevant matters contained in section 4.55(1A) of the EP&A Act. This application is accompanied by the following:

- Architectural Plans prepared by Buchan (**Attachment A**);
- Acoustic Assessment Report prepared by Renzo Tonin & Associates (**Attachment B**); and
- Fire Engineering Letter prepared by Minerva (**Attachment C**).

1.0 Introduction

This application has been prepared by Ethos Urban on behalf of The Star Entertainment Group Limited (The Star) pursuant to section 4.55(1A) of *the Environmental Planning & Assessment Act 1979* (the EP&A Act) to modify Development Consent former Part 3A Approval MP 08_0098 relating to 80 Pyrmont Street, Pyrmont (the site).

The purpose of this modification is to amend former Part 3A Approval MP 08_0098 to convert part of the Level 3 Sovereign Room space to a UGA and provide a new outdoor green wall for future patron outlook. The modification also seeks to extend the trial periods related to music in the outdoor gaming areas across The Star site to align with the extension of the trial periods related to the operation of gaming areas which was proposed as part of Modification 16 and is currently under assessment.

This application identifies the consent, describes the proposed modifications and provides a planning assessment of the relevant matters for consideration contained in section 4.55(1A) of the EP&A Act.

1.1 Background and consent proposed to be modified

The consent proposed to be modified was granted by the then Minister for Planning on 27 January 2009 for alterations and additions to the Star City Casino and Entertainment Complex and the Darling Hotel Development (the **Part 3A Approval**). The Part 3A Approval consisted of the following elements:

- 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; and
- works to the exterior of the existing Casino tower buildings.

The Part 3A Approval has since been modified 14 times since 2009 and now comprises the following:

- Maximum height of 74m;
- Total GFA of 140,200sqm, comprising:
 - 34,300sqm hotel GFA (489 rooms:318 in the Astral Hotel and 171 in The Darling);
 - 33,887sqm gaming GFA;
 - 18,571sqm circulation/back of house GFA;
 - 16,137sqm serviced apartment GFA (117 serviced apartments in the Astral Residences);
 - 14,523sqm food and beverage GFA (including the Sky Terrace rooftop bar on Level 3);
 - 9,403sqm Lyric Theatre GFA (capacity 2,005 patrons);
 - 5,477sqm MUEF GFA (capacity 2,200 patrons);
 - 5,020sqm office/administration GFA;
 - 1,976sqm retail GFA;
 - 906sqm night-club GFA;
- 2,795 basement carparking spaces; and
- The Star light rail station.

On 24 January 2020, the Director of Key Sites Assessments under delegation from the Minister for Planning and Public Spaces, declared the approved project to be State Significant Development (SSD).

Now that the project has ceased to be a transitional Part 3A project, it can be modified under section 4.55 of the EP&A Act. In relation to section 4.55(1A) or (2) modifications which contain a “substantially the same development” test, the consent authority need only be satisfied that the development to which the consent as modified relates is substantially the same development as the development authorised by the consent, **as last modified under section 75W** (clause 3BA(6) of Schedule 2 to the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017*).

Modification 16 is currently under assessment with the Department of Planning and Environment (DPE). It seeks approval for the expansion of Level 17 balconies as well as the extension of trial periods associated with UGAs and terraces across the site.

This letter proposes changes to part of the Level 3 Sovereign Room which is currently not in operation amongst other minor changes and will constitute the 17th modification application to the SSD.

2.0 Strategic Context

The assessment of the strategic context of the approved development as modified remains consistent with the development as modified. As such, the development remains strategically supported by the plans and documents outlined in **Table 1**.

Table 1 Summary of Strategic Context

Plan	Summary of Assessment
NSW State Priorities	The proposed modifications will be consistent with the State Priorities by providing improved entertainment space that is well served by public transport, including buses, light rails and ferries. In addition, the modifications will contribute to the growth of the NSW economy and enhance its international appeal.
A Metropolis of Three Cities – Greater Sydney Region Plan	The proposed modifications will support the realisation of the relevant directions and objectives. Namely, the modifications will provide employment opportunities within close proximity to the Harbour CBD and easily walkable and accessible by public transport. The conversion of the Level 3 Sovereign Room space will contribute to The Star's entertainment providing which contributes to the economic strength of the Harbour CBD.
Eastern City District Plan	The proposed modifications will contribute to the key priorities and actions of the Eastern City District Plan, improving access to jobs nearby to public transport, increasing jobs in an economy which has been impacted by Covid-19.
City Plan 2036: Local Strategic Planning Statement	The proposed modifications are consistent with the LSPS's goals of productivity. The modifications will provide gaming space which will contribute to Sydney's entertainment offerings and will contribute to the economic competitiveness of Sydney through the creation of jobs.
Future Transport Strategy 2056	Future patrons that will utilise the space subject to this modification will benefit from a site which is already highly accessible, strategically located within walking distance of the CBD and within close proximity to the light rail and future Metro Station.
Sydney City Centre Access Strategy 2013	Not applicable to this modification.
Sydney's Cycling Future 2013	Not applicable to this modification.
Sydney's Walking Future 2013	Not applicable to this modification.
Sydney's Light Rail Future 2013	Not applicable to this modification.
Visitor Accommodation Action Plan	Not applicable to this modification.

3.0 Description of Modifications

3.1 Modifications to the development

The following works are proposed as part of this modification

- Conversion of 410m² (out of a total 10,800m²) of existing Level 3 Sovereign Room space currently not in operation to a UGA;
- New outdoor green wall located adjacent to the UGA;
- Minor alterations to existing kitchen exhaust fan located adjacent to the UGA to ensure compliance; and
- Clarification of trial periods related to the use of speakers and music in the following areas:
 - Level 1 Pirrama Road Outdoor Gaming Areas;
 - Oasis Outdoor Gaming Area fronting Pyrmont Street; and
 - Sovereign Level 3 Outdoor Gaming Areas within the site and those fronting Pirrama Road and Pyrmont Streets.

3.1.1 Conversion of Level 3 Sovereign Room space to UGA

This modification seeks approval for the conversion of approved indoor gaming space located on Level 3 of the Sovereign Room adjacent to Pyrmont Street into an exclusive UGA for a limited number of The Star’s most valued VIP customers. A site plan showing the location of the Level 3 Sovereign Room is provided in the Architectural Drawings and replicated at **Figure 1**.

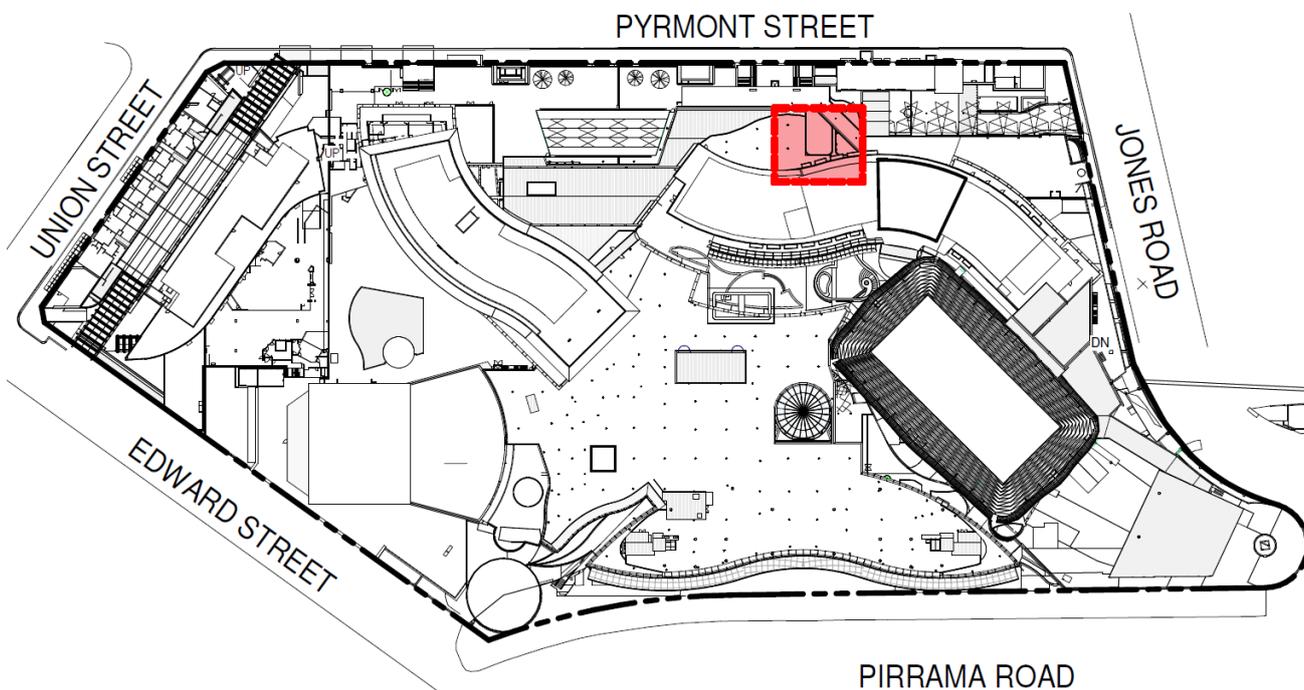


Figure 1 Location of UGA on The Star site

Source: Buchan

The conversion of the space will follow a similar approach to other UGAs on the site. The works comprise the removal of the existing façade to allow for operable louvres which extend around the façade of the UGA as well as roof openings to allow for indoor smoking. Modelling of the proposed space is provided in the Architectural Drawings at **Attachment A** and shown at **Figure 2**.

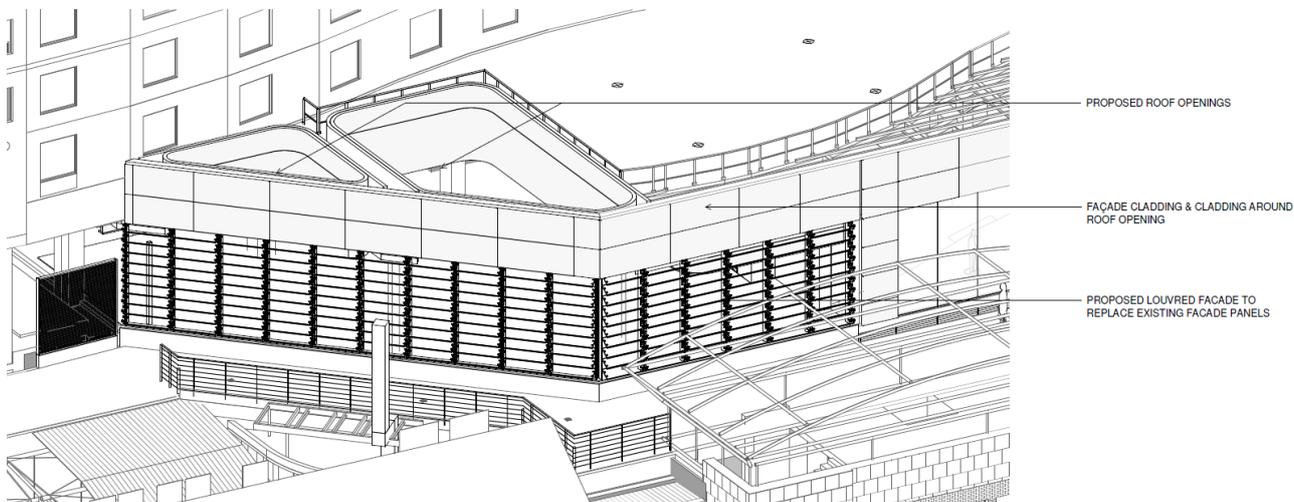


Figure 2 3D model of proposed works

Source: Buchan

Gross floor area

The gaming area associated with the proposed UGA was approved as part of additional gaming uses associated with the Sovereign Room in Modification 14. The location of the UGA shown on the approved Level 3 Gross Floor Area plan is provided at **Figure 3**. This area was included in GFA calculations. Although the space will be converted to a UGA, it will remain as GFA as the space will remain sufficiently enclosed for the purposes of this definition.

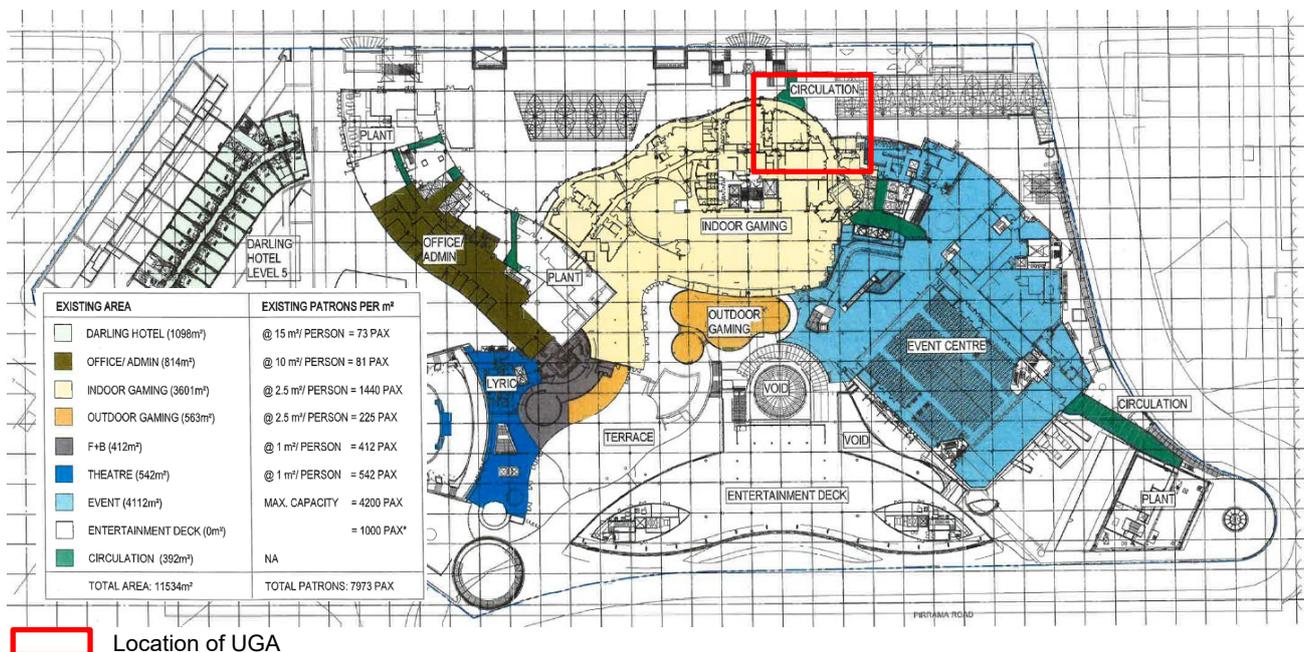


Figure 3 Stamped Modification 14 Gross Floor Area Diagram Identifying Proposed UGA

Source: DWP Suters modified by Ethos Urban

3.1.2 Green wall

The modification also seeks approval for an outdoor green wall located adjacent to the proposed UGA space which will result in a more enjoyable outlook for patrons utilising the UGA. An example of the green wall is shown at **Figure 4** and its location is shown in **Figure 5**. Design details of the proposed green wall will be provided to City of Sydney Council (Council) prior to the issue of a construction certificate. A maintenance plan will also be submitted to and approved by the Principal Certifying Authority. A copy of the maintenance plan will also be provided to DPE.



Figure 4 Green wall inspiration
Source: Scott Carver

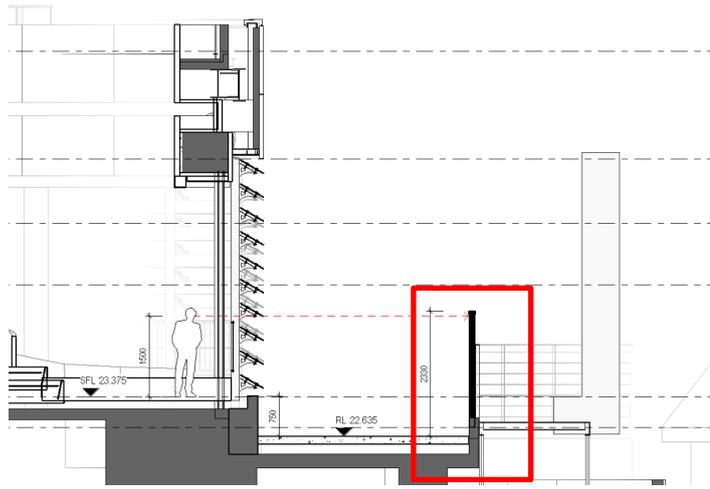


Figure 5 Location of green wall outlined in red adjacent to proposed UGA
Source: Buchan

Kitchen exhaust

The modification also seeks to modify the existing kitchen exhaust located adjacent to the proposed UGA to enable a 6 metre horizontal separation from the UGA which will operate as a habitable space. The height is also proposed to be altered to approximately 5.3 metres to ensure compliance. The exhaust will not be visible from Pyrmont Street.

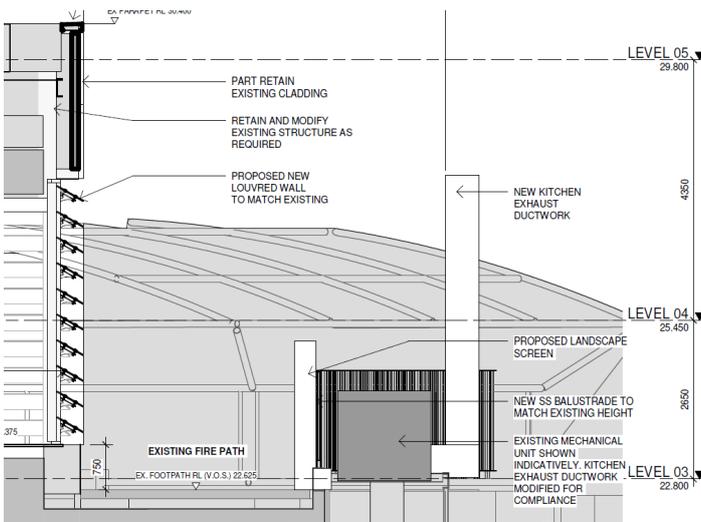


Figure 6 Kitchen exhaust modifications
Source: Buchan

3.1.3 Music in outdoor gaming areas

Modification 16 which is currently under assessment by DPE sought an extension of the trial periods related to the outdoor gaming areas under Condition F3. It requested a consistent end date being the determination of Modification 16. Condition F1A is related to the trial use of speakers and music outside, while Condition F3 is related to hours of operation. It is considered that these two conditions go hand in hand and therefore extensions to trial periods should be consistent across both conditions and across all areas subject of the trial periods. As such, this modification seeks to amend the wording of Condition F1A to align with the changes sought in Modification 16.

3.2 Modifications to conditions

The proposed modifications described above necessitate amendments to the consent conditions which are identified below. Words proposed to be deleted are shown in ~~bold strike through~~ and words to be inserted are shown in ***bold italics***.

Condition A2

The approved development is to be consistent with the following drawings:

Drawing Number	Rev	Name of Plan	Date
A90B5	C	Existing Site Plan & GFA Diagram – Level B05	11.11.16
A90B4	C	Existing Site Plan & GFA Diagram – Level B04	11.11.16
A90B3	D	Existing Site Plan & GFA Diagram – Level B03	11.04.17
A90B2	F	Existing Site Plan & GFA Diagram – Level B02	11.04.17
A90B1	E	Existing Site Plan & GFA Diagram – Level B01	11.04.17
A9000	E	Existing Site Plan & GFA Diagram – Level 00	11.04.17
A9001	E	Existing Site Plan & GFA Diagram – Level 01	11.04.17
A9002	E	Existing Site Plan & GFA Diagram – Level 02	11.04.17
A9003	E	Existing Site Plan & GFA Diagram – Level 03	11.04.17
A9004	C	Existing Site Plan & GFA Diagram – Level 04	11.11.16
A9005	E	Existing Site Plan & GFA Diagram – Level 05	16.02.17
A9006	C	Existing Site Plan & GFA Diagram – Level 06	11.11.16
A9007	C	Existing Site Plan & GFA Diagram – Level 07	11.11.16
A9008	C	Existing Site Plan & GFA Diagram – Level 08	11.11.16
A9009	C	Existing Site Plan & GFA Diagram – Level 09	11.11.16
A9010	C	Existing Site Plan & GFA Diagram – Level 10	11.11.16
A9011	C	Existing Site Plan & GFA Diagram – Level 11	11.11.16
A9012	C	Existing Site Plan & GFA Diagram – Level 12	11.11.16
A9015	C	Existing Site Plan & GFA Diagram – Level 15	11.11.16
A9016	C	Existing Site Plan & GFA Diagram – Level 16	11.11.16
A9017	C	Existing Site Plan & GFA Diagram – Level 17	11.11.16
A9018	C	Existing Site Plan & GFA Diagram – Level 18	11.11.16
A9019	C	Existing Site Plan & GFA Diagram - Roof	11.11.16
A07B4	B	Demolition Plan – Level B04	15.09.16

Drawing Number	Rev	Name of Plan	Date
A07B3	B	Demolition Plan – Level B03	15.09.16
A07B2	D	Demolition Plan – Level B02	13.08.2021
A07B1	C	Demolition Plan – Level B01	15.09.16
A0700	F	Demolition Plan – Level 00	26.04.2021
A0701	D	Demolition Plan – Level 01	05.05.17
A0702	D	Demolition Plan – Level 02	05.05.17
A0703	D E	Demolition Plan – Level 03	05.05.17 08.02.2022
A0704	B	Demolition Plan – Level 04	15.09.16
A0705	E F	Demolition Plan – Level 05	05.05.17 08.02.2022
A10B4	D	Proposed Site Plan – Level B04	05.05.17
A10B3	E	Proposed Site Plan – Level B03	15.09.16
A10B2	G	Proposed Site Plan – Level B02	13.08.2021
A10B1	E	Proposed Site Plan – Level B01	11.04.17
A1000	H	Proposed Site Plan – Level 00	13.08.2021
A1001	G	Proposed Site Plan – Level 01	13.08.2021
A1002	F	Proposed Site Plan – Level 02	05.05.17
A1003	F G	Proposed Site Plan – Level 03	05.05.17 08.02.2022
A1004	E	Proposed Site Plan – Level 04	05.05.17
A1005	G H	Proposed Site Plan – Level 05	26.04.2021 08.02.2022
A2000-1	F	Proposed Floor Plan – Level 00 – Part 1	05.05.17
A2000-2	E	Proposed Floor Plan – Level 00 – Part 2	05.05.17
A2001	D	Proposed Floor Plan – Level 01	05.05.17
A2002	E	Proposed Floor Plan – Level 02	05.05.17
A2003-1	E	Proposed Floor Plan – Level 03 - Part 1	05.05.17
A2003-2	D	Proposed Floor Plan – Level 03 - Part 2	05.05.17
A2004	B	Proposed Floor Plan – Level 04	15.09.17
A2005	D	Proposed Floor Plan – Level 05	11.04.17
A9100	E	Proposed GFA Diagram – Level 00	05.05.17
A9101	D	Proposed GFA Diagram – Level 01	11.04.17
A9102	B	Proposed GFA Diagram – Level 02	15.09.17
A9103	E	Proposed GFA Diagram – Level 03	05.05.17
A9104	B	Proposed GFA Diagram – Level 04	15.09.17
A9105	C	Proposed GFA Diagram – Level 05	14.02.17
A4010	B	Building Elevations – sheet 1	15.09.16
A4011	D	Building Elevations – sheet 2	05.05.17

Drawing Number	Rev	Name of Plan	Date
A4012	C	Building Elevations – sheet 3	05.05.16
A5010	C	Building Sections – sheet 1	05.05.17
A5011	C	Building Sections – sheet 2	23.01.17
A5012	C	Building Sections – sheet 3	15.09.16
A5013	C	Building Sections – sheet 4	05.05.16
A5014	C	Building Sections – sheet 5	05.05.17
A0010	B	Photomontage & Finishes Schedule	15.09.16
A0011	C	Photomontage & Finishes Schedule	23.01.17
A0012	B	Photomontage & Finishes Schedule	15.09.16
A0013	D	Photomontage & Finishes Schedule	05.05.17
A0014	B	Photomontage & Finishes Schedule	15.09.16
A0015	E	Photomontage & Finishes Schedule	05.05.17
A7010	A	Internal elevations – ELS building and porte cochere	23.01.17
A3000	C	SELS building scope of works	05.05.17
A7018	4	Premium Departure Lounge – floor plan	16.02.17
A7019	2	Premium Departure Lounge - elevations	18.08.16
A6411	3	Water Feature Details	01.02.17
MOD14-A92B2A	A	Existing Site Plan – Level B2	04.06.2017
MOD14-A9200A	A	Existing Site Plan – Level B2	04.06.2017
MOD14-A9201A	A	Existing Site Plan – Level 01	14.09.2017
MOD14-A9202A	A	Existing Site Plan – Level 02	14.09.2017
MOD14-A9203A	B	Existing Site Plan – Level 03	14.09.2017
MOD14-A9204A	A	Existing Site Plan – Level 04	04.06.2017
MOD14-A9205A	A	Existing Site Plan – Level 05	04.06.2017
MOD14-A9216A	A	Existing Site Plan – Level 16	04.06.2017
MOD14-A9217	A	Existing Site Plan – Level 17	14.06.2017
MOD15-A0000	G	Cover Sheet	13.08.21
MOD15-A0001	J	Site Plan	13.08.21
MOD15-A0002	I	Overall Elevations	13.08.21
MOD15-A1010	J	Pirrama Road	13.08.21
MOD15-A1030	I	Edward St Entry	13.08.21
MOD15-A1031	H	Edward St Entry	13.08.21
MOD15-A1040	J	Pyrmont St	13.08.21
MOD15-A1050	G	The Darling Check-In Upgrade	13.08.21
MOD15-A1060	J	Level 5 Plant Room Screening	13.08.21

Drawing Number	Rev	Name of Plan	Date
MOD15-A1061	H	Level 5 Plant Room Screening	13.08.21
MOD15-A1070	G	Building Signage	13.08.21
MOD16-A0001*	F	Cover Sheet	29.07.21
MOD16-A0011*	F	Site Plan	29.07.21
MOD16-A0012*	F	Overall Elevations	29.07.21
MOD16-A1001*	F	Level 17 Plan	29.07.21
MOD16-A1002*	F	Grand Hotel Elevation	29.07.21
MOD16-A1003*	F	Grand Hotel Elevation	29.07.21
MOD16-A1011*	F	Type 1 Balcony 1	29.07.21
MOD16-A1012*	F	Type 1 – Balcony 3	29.07.21
MOD16-A1013*	F	Type 2 – Balcony 2, 4, 5 & 6	29.07.21
MOD16-A1014*	F	Type 3 – Pit 80 Balcony	29.07.21
MOD17-DA030	C	Cover Sheet	08.02.2022
MOD17-DA031	C	Site Plan	08.02.2022
MOD17-DA032	C	GA Plan Level 03	08.02.2022
MOD17-DA033	C	GA Plan Level 05	08.02.2022
MOD17-DA034	C	Reflected Ceiling Plan – Level 03	08.02.2022
MOD17-DA035	C	Elevations	08.02.2022
MOD17-DA036	C	Sections	08.02.2022
MOD17-DA037	C	3D Modelling	08.02.2022

*Modification 16 plans currently under assessment.

Reason:

Plan numbers, revisions and details need to be amended to reflect the updated plans and drawings that accompany this Section 4.55 application.

Condition F1A Trial Use of Speakers and Music Outside

The use of speakers and amplified music in those outdoor areas identified in Condition F1**(b) (c)** to F1(e) above is subject to **a an extended two-year** trial period which shall commence on grant of approval of MP08_0098 ~~MOD 14 MOD 16 or within one month of the issue of an Occupation Certificate for the outdoor areas whichever is the latter~~. The proponent shall notify Council and the Department in writing of the commencement of the **extended** trial period for each of the outdoor areas identified in Condition F1(b) to F1(e) above. Email notification to Council of the commencement of the trial period shall be sent to liquor@cityofsydney.nsw.gov.au.

Reason:

Modification 16 sought an extension of trial periods applicable to the outdoor gaming areas listed in Condition F3. Outdoor gaming areas are also subject to a trial period for the use of speakers and music outside. To ensure the consent related to trial periods and the usage of speakers and music outside is consistent, it is proposed that Condition F1A be amended to correspond with the extended trial period that is currently under assessment with DPE. It should also be noted the Level 3 Pirrama Road Entertainment Deck was demolished as part of Modification 14 and therefore no longer exists. Accordingly, the condition has been amended to reflect this change.

4.0 Statutory Context

4.1 Compliance with Environmental Planning Instruments

An assessment of the proposed changes against the relevant statutory plans, is provided in **Table 2** below.

Table 2 Compliance with Relevant Plans and Policies

Instrument/Strategy	Comments
State Environmental Planning Policy (State and Regional Development) 2011	On 24 January 2020, the Director of Key Sites Assessments under delegation from the Minister for Planning and Public Spaces, declared the approved Part 3A Project to be State Significant Development (SSD). Accordingly, this is a 4.55(1A) modification which will be assessed by DPE.
State Environmental Planning Policy (Infrastructure) 2007	According to Schedule 3 of the State Environmental Planning Policy (Infrastructure) 2007 (ISEPP), the approved development is classified as 'traffic generating development'. Given the minor changes proposed as part of this modification, no additional traffic impacts are expected and so the assessments made previously against the ISEPP continue to apply.
Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	<p>According to the Sydney Regional Environmental Plan 2005 (SREP 2005), the site is located within the Foreshores and Waterways Area and therefore subject to the DCP provisions which include design guidelines for development. The aims of the SREP 2012 are:</p> <ul style="list-style-type: none"> (a) to ensure that the catchment, foreshores, waterways and islands of Sydney Harbour are recognised, protected, enhanced and maintained— <ul style="list-style-type: none"> (i) as an outstanding natural asset, and (ii) as a public asset of national and heritage significance, for existing and future generations, (b) to ensure a healthy, sustainable environment on land and water, (c) to achieve a high quality and ecologically sustainable urban environment, (d) to ensure a prosperous working harbour and an effective transport corridor, (e) to encourage a culturally rich and vibrant place for people, (f) to ensure accessibility to and along Sydney Harbour and its foreshores, (g) to ensure the protection, maintenance and rehabilitation of watercourses, wetlands, riparian lands, remnant vegetation and ecological connectivity, (h) to provide a consolidated, simplified and updated legislative framework for future planning. <p>The proposed modifications are minor and cosmetic in nature. The changes will not detract from the views of Sydney Harbour.</p>
Sydney Local Environmental Plan 2012	The site is zoned as B3 Commercial Core which permits the current uses on the site. The proposed changes will not change any existing and approved uses on the site.
Sydney Development Control Plan 2012	<p>According to Clause 11 of the State and Regional Development SEPP, development control plans do not apply to state significant development, as such the provisions of the SDCP 2012 do not apply to this application. Notwithstanding this, it can be concluded the proposed modifications align with the Pyrmont Point Locality Statement provided in the SDCP 2012 which has been provided below.</p> <p><i>Pyrmont's mixed use character is to be maintained. The area is to function as a combined living and working precinct while protecting historic buildings and topography. The striking cliff faces are important to remain as exposed landmarks visible from within the area and from the Harbour. Views of Central Sydney and surrounding suburbs from the public domain are to be maintained. Active ground floor uses such as shops and cafés and restaurants are encouraged.</i></p> <p>The proposed modifications are also consistent with the principles outlined as part of the Pyrmont Point Locality Statement.</p>

5.0 Assessment of Impacts

Under section 4.55(3) the consent Authority must also take into consideration the relevant matters to the application referred to in section 4.15(1) of the EP&A Act and the reasons given by the consent authority for the grant of the original consent.

The Environmental Assessment Report submitted with the original application (MP 08_0098) assessed the potential impacts of the overall development with regard to the following:

- Sydney Metropolitan and Subregional Strategies
- Relevant EPIs & guidelines
- Urban development for Ultimo Pyrmont
- Developer contributions
- Architecture and urban design
- Heritage impacts
- Visual impacts
- Wind effects
- Safety/public areas/pedestrians
- Public domain
- Vehicular access, car parking & traffic impacts
- Noise
- Reflectivity
- Ecologically sustainable development
- Social impact assessment
- Economic assessment
- Accessibility
- Construction management
- Electrical and telecommunications services
- Water, stormwater, sewerage and gas services
- Building Code of Australia
- Fire engineering
- Audit of 1997 Casino Consent

The planning assessment of the proposed modified development remains generally unchanged with respect to the large majority of the above matters. The proposed changes will cause little environmental impact. Matters related to acoustic impacts which warrant further assessment have been outlined below.

5.1 Acoustic impacts

An Acoustic Assessment Report has been prepared by Renzo Tonin & Associates and is provided at **Attachment B**. The Report outlines main sources of noise will occur from gaming activities with minimal patrons talking and provision of low background music (as sampled from the other existing UGA on The Star site). It quantifies noise emission from activities associated with the proposal and assesses the operational noise on nearby sensitive receivers in accordance with the noise requirements under Condition F5 introduced by Modification 14.

In order for the noise emission from the proposed UGA not to contribute to the increase in noise levels, target noise levels less than the noise criteria established in accordance Condition F5 were adopted as the project specific objective. In addition, for the determination of inaudibility with respect to the new UGA and in consideration of potential cumulative impacts, the design goal for the UGA was set as 13dB below the background noise level in each octave band for intermittent noise sources.

The assessment found that the gaming activities in the UGA can comply with the established noise goals with the exception of a minor exceedance. The exceedance was considered to be imperceptible and will sound the same as a technical compliance. The Report concludes the noise contribution levels from the new UGA are predicted to also comply with Condition F5.

5.2 Fire engineering

A Fire Engineering Letter has been prepared by Minerva and is provided at **Attachment C**. As some items of the proposal contradict the fire strategy outlined within the existing WSP Fire Engineering Report, an assessment of the proposed design has been undertaken to ensure the items can be addressed through fire engineering analysis in the next phase of design.

6.0 Justification of Modified Project

6.1 Substantially the same development

Section 4.55(1A) of the EP&A Act states that a consent authority may modify a development consent if *“it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all)”*.

The development, as proposed to be modified, is substantially the same development as that originally approved in that:

- the land use mix remains consistent with that of the approved development;
- the modifications proposed are minor in the context of the scale of the building;
- no changes to the approved GFA are proposed; and
- no changes to the approved parking numbers are proposed.

The development, as proposed to be modified is therefore both essentially and materially of the same essence as that of the approved development and is therefore considered to be substantially the same as the approved development. The modification of the Development Consent can therefore be lawfully made under section 4.55 of the EP&A Act.

6.2 Minimal environmental impact

Section 4.55(1A) of the EP&A Act states that a consent authority may modify a development consent if *“it is satisfied that the proposed modification is of minimal environmental impact”*. The proposed changes when compared to the scale of the development are minor in nature. The environmental assessment provided in **Section 5.0** outlines the works will continue to comply with the acoustic conditions listed in the consent applicable to The Star site.

6.3 Reasons given for granting consent

Section 4.55(3) of the EP&A Act requires that the consent authority also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified. In 2009, the Department assessed the merits of the project and were satisfied that the site was suitable for the proposed development and that the project would provide environmental, social and economic benefits to the region.

7.0 Conclusion

The proposed modifications to the approved development, as outlined in **Section 3.0**, comprise the conversion of approved indoor gaming area to a UGA, a new green wall, alterations to existing kitchen exhaust fan and the extension of trial periods applicable to speakers and music associated with outdoor terraces/decks and gaming areas.

In accordance with section 4.55(1A) of the EP&A Act, the Department may modify the consent as:

- the proposed modification is of minimal environmental impact;
- the consent, as proposed to be modified, is substantially the same development as that originally approved;
- the proposed modification will not change the approved GFA; and
- the development (as proposed to be modified) continues to comply with the relevant statutory plans and policies.

In light of the above, we therefore recommend that the proposed modification is supported by the Department of Planning and Environment.

- the proposed modification is of minimal environmental impact; and
- substantially the same development as development for which the consent was granted.

We trust that this information is sufficient to enable a prompt assessment of the proposed modification request.

Yours sincerely,



Juliet Wittenoom Louw
Urbanist
0438 571 444
jlouw@ethosurban.com



Yvette Carr
Associate Director
0412 050 221
ycarr@ethosurban.com