



***Increase in patron
numbers at Level 12
Zephyr Bar – Hyatt
Regency***

State Significant
Development
Modification Assessment
(SSD 7014 MOD 5)

May 2019

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Glossary

Abbreviation	Definition
BCA	Building Code of Australia
Consent	Development Consent
Council	City of Sydney Council
DHDP	Darling Harbour Development Plan No 1
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
LEP	Local Environmental Plan
Minister	Minister for Planning
RtS	Response to Submissions
SHC SREP	<i>Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</i>
SRD SEPP	<i>State Environmental Planning Policy (State and Regional Development) 2011</i>
SSD	State Significant Development



Executive Summary

GL InvestmentCo Pty Ltd (the Applicant) seeks approval to modify the consent (SSD 7014) granted for the construction of a two-storey executive lounge and rooftop bar above the northern tower of the former Sheraton Four Points Hotel, now operating as Hyatt Regency Sydney (the Hyatt).

The section 4.55(2) modification application seeks approval to increase the total permissible number of people for the rooftop bar (Zephyr Bar) on Level 12 from 200 to 260 people.

Engagement

The Department publicly exhibited the modification request and sought comments from Council, government agencies and neighbouring properties. The Department received comments from Council and Liquor and Gaming NSW. One public submission was received objecting to the proposal raising issues regarding acoustic impacts and compliance with post occupation noise conditions of the SSD Approval.

Assessment

The key assessment issue for this project is the potential amenity impact due to the increase in people. Other issues of consideration include the venue's management performance, management of patrons and compliance with the Building Code of Australia.

Summary

The Department considers the modification application to be appropriate as it would enable the ongoing use of the premises with negligible impacts on the amenity of adjoining properties. The Department concludes the modification application is in the public interest and should be approved, subject to conditions.



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1. Introduction

This report provides an assessment of an application to modify the SSD consent (SSD 7014), which granted approval for the construction of a two-storey executive lounge and rooftop bar above the northern tower of the former Sheraton Four Points Hotel, now operating as Hyatt Regency Sydney (the Hyatt).

The modification application seeks approval to increase the total permissible number of people for the rooftop bar (Zephyr Bar) on Level 12 from 200 to 260 people.

The application has been lodged by Ethos Urban on behalf of GL InvestmentCo Pty Ltd (the Applicant) pursuant to section 4.55(2) of the EPA&A Act.

1.1 Background

The subject site is identified as 161 Sussex Street, Sydney located at the western periphery of the Sydney central business district adjacent to the Western Distributor roadway, overlooking Darling Harbour (**Figure 1**). The executive lounge (Level 11) and rooftop bar (Level 12) are located in the 12-storey northern tower of the Hyatt (**Figure 2**). The Hyatt contains a mix of uses including hotel, retail, restaurant uses and commercial offices and comprises part 12, 16 and 27-storey tower buildings.

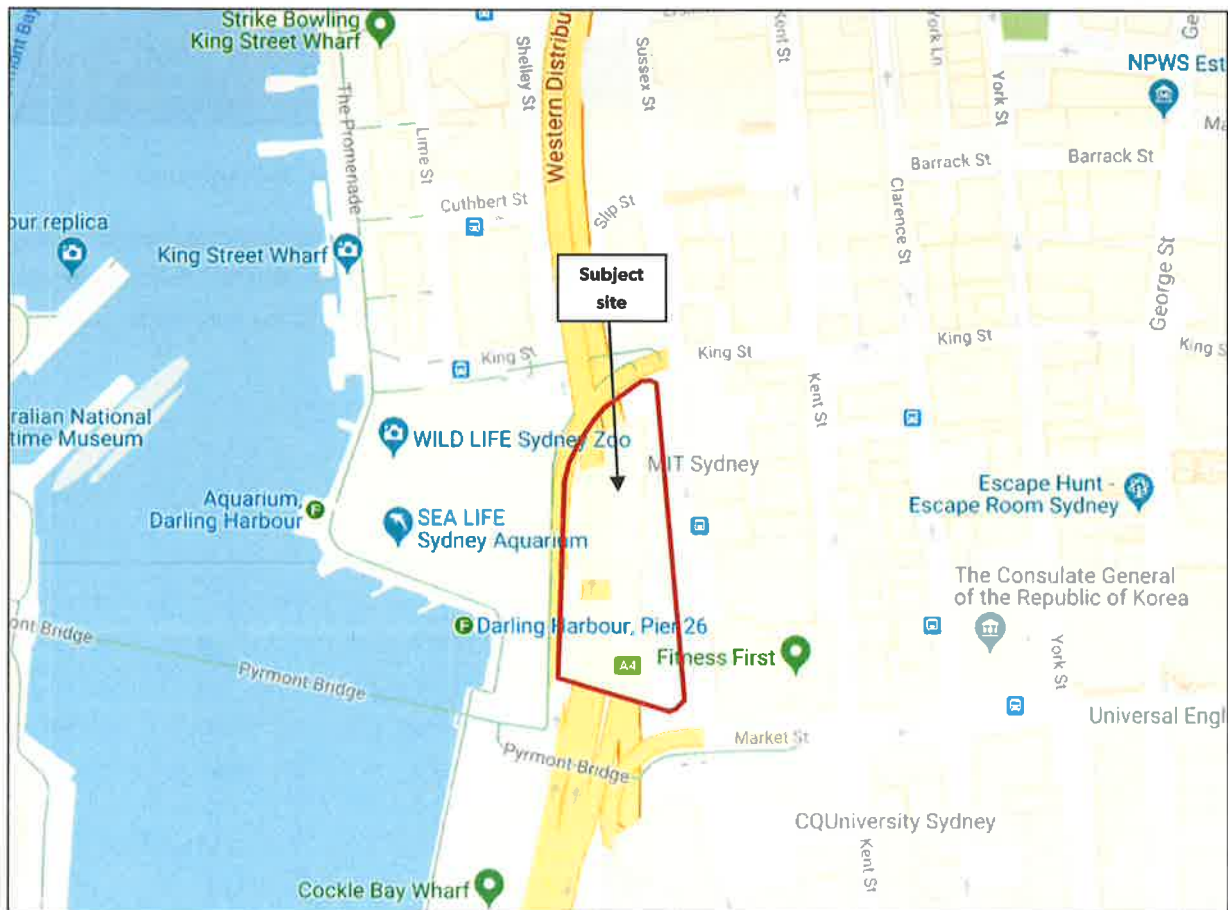


Figure 1 | Site Location (Base source: Nearmap)

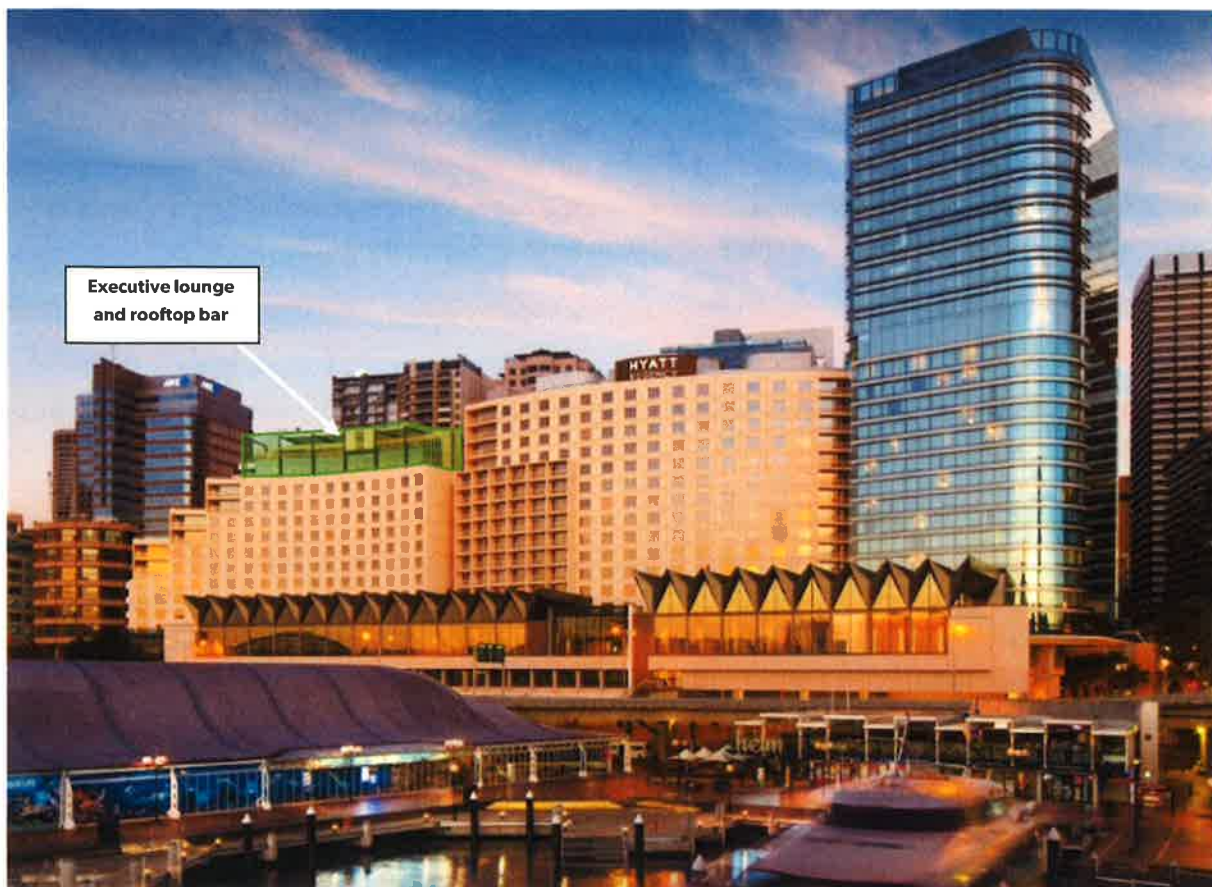


Figure 2 | Subject site as viewed from Pyrmont Bridge, Darling Harbour (Base source: SSD Approval)

The closest residential property to the site is the Windsor Building, 365 Kent Street, which is located approximately 70 metres (m) to the east. Other nearby sensitive receivers include the Metro Apartments at 136 Sussex Street, located 85 m to the north-east and Adina Hotel, 55 Shelley Street, located 100 m to the north-west. The site's relationship to its surrounding context is shown at **Figure 3**.

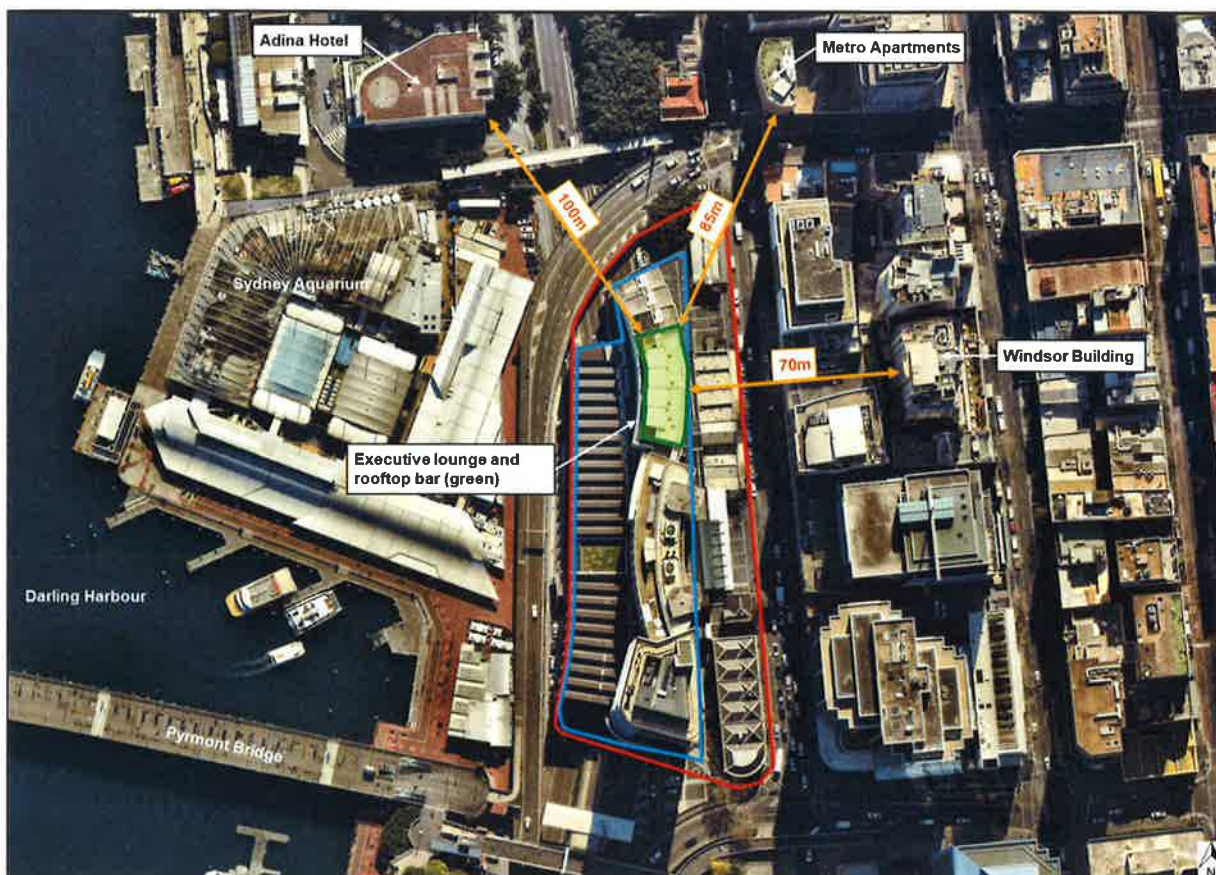


Figure 3 | Site Location (Base source: Nearmap)

1.2 Approval History

On 26 February 2015, the then Planning Assessment Commission (the Commission) approved a SSD application (SSD 7014) for the construction of a 2-storey executive lounge and bar above the norther tower of the existing hotel (the SSD Approval), including:

- executive lounge at Level 11
- public rooftop bar at Level 12
- associated amenities
- plant room.

The SSD Approval has previously been modified on four occasions as outlined in **Table 1**.

Table 1 | Summary of Modifications

Mod No.	Summary of Modifications	Approval Authority	Type	Approval Date
MOD 1	External changes to the executive lounge and bar including the reduction of the roof structure height and provision of a privacy screen.	Department	4.55(1A)	5 October 2016
MOD 2	Installation of roof top plant, flues, exhausts and air-ducts.	Department	4.55(1A)	23 November 2016

MOD 3	Continuation of the extended hours of operation (24 hours a day, seven days a week) for an additional 24 months.	Department	4.55(1A)	22 December 2017
MOD 4	Continuation of the extended hours of operation (24 hours a day, seven days a week) for a further 60 months.	Department	4.55(1A)	8 February 2019

The SSD Approval is shown at **Figure 4**.



Figure 4 | Aerial view of the SSD Approval (Base source: the SSD Approval)

The SSD Approval included the following conditions to manage and limit the number of people attending the rooftop bar on Level 12:

- Condition F8 – Operation and Management, which restricts the capacity of the rooftop bar to a maximum of 200 people
- Condition E12 – Plan of Management (PoM), which required the preparation and implementation of a PoM including restrictions on the number of patrons.



2. Proposed Modification

On 21 March 2019, the Applicant lodged a modification request (SSD 7014 MOD 5) seeking approval under section 4.55(2) of the EP&A Act to modify Condition E12 and Condition F8 to increase the total permissible number of people for the rooftop bar (Zephyr Bar) on Level 12 from 200 to 260.

The Applicant proposes to amend Condition E12 and Condition F8 as follows (insertion of the bold and underlined text and deletion of the bold and struckout texts):

Condition E12 - Plan of Management

A final Plan of Management shall be submitted to and approved by the Department prior to the issue of an Occupation Certificate for that area. The Plan of Management must be prepared to address all operational and management procedures to be employed, to ensure that the premises can operate without disturbance to the surrounding locality.

The plan must include but is not restricted to; compliance with all other operational conditions of this consent; hours of operation; noise; security management; handling complaints; and be generally in accordance with the draft plan of management submitted with the EIS.

The plan must be submitted to and approved by the Department prior to an Occupation Certificate being issued. The plan must include as a minimum:

- *Compliance with all other operational conditions of this consent.*
- *A maximum of 200 patrons at ~~each~~ level 11.*
- ***A maximum of 260 persons total at level 12.***
- *Restriction of the Executive Lounge to hotel guests only.*
- *Noise management practices.*
- *Security measures in place to ensure safe operation.*
- *Operation in accordance with any liquor license approved for the development.*
- *Safety and security measures for patrons and handling complaints.*

The approved Plan of Management is thereafter to be complied with during the use of the premises.

Condition F8 – Operation and Management

*Use of the executive bar and outdoor deck at level 12 is restricted to a maximum of ~~200 patrons~~ **260 total persons** at any one time*



3. Strategic Context

3.1 Greater Sydney Regional Plan

The Greater Sydney Regional Plan – A Metropolis of Three Cities sets out the NSW Government's 40-year vision and establishes a 20-year plan to manage growth for Greater Sydney and includes 10 directions. The Plan's key directions are to provide:

- a city supported by infrastructure – infrastructure supporting new developments
- a collaborative city – working together to grow a Greater Sydney
- a city for people – celebrating diversity and putting people at the heart of planning
- housing the city – giving people housing choices
- a city of great places – designing places for people
- a well connected city – developing a more accessible and walkable city
- jobs and skills for the city – creating conditions for a stronger economy
- a city in its landscape – valuing green spaces and landscape
- an efficient city – using resources wisely
- a resilient city – adapting to a changing world.

The proposal supports the directions and objectives of the Plan by:

- ensuring Greater Sydney's harbor central business district is stronger and more competitive
- ensuring Greater Sydney attracts investment and business activity in centers
- ensuring Greater Sydney is a great place that brings people together.

3.2 Eastern City District Plan

The Greater Sydney Commission has prepared District Plans to inform regional and local-level planning and assist the actions of State agencies. The aim of the District Plans is to connect local planning with longer-term metropolitan planning for Greater Sydney.

The site is located within the Eastern City District. The Eastern City District Plan contains key priorities that are relevant to the proposal which includes:

- Planning Priority E4. Fostering healthy, creative, culturally rich and socially connected communities.

The proposal is consistent with the above priority as the increase in patron numbers will further stimulate the night-time economy within a responsive regulatory environment and will help grow a more competitive harbour central business district.



4. Statutory Context

4.1 Scope of Modifications

A consent authority may modify the consent if it is satisfied the proposed modification application meets the requirements of section 4.55(2) of the EP&A Act. An assessment of the proposed modification application against the requirements of section 4.55(2) of the EP&A Act is included in **Table 2**.

Table 2 | Summary of Modifications

Section 4.55(2)	Assessment
The development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified.	The development, as proposed to be modified, is substantially the same development as that originally approved in that: • it does not result in any physical changes to the SSD approval • will not result in any adverse impacts to the surrounding environment • seeks to maintain the current approved operating regime for the Zephyr Bar.
That consultation has occurred with the relevant Minister, public authority or approval body and an objection has not been received.	The Department has consulted the relevant government agencies, surrounding landowners and the Council in relation to the modification application (refer to Section 5 of this report).
The application has been notified in accordance with the regulations.	The modification application has been notified in accordance with the EP&A Regulation (refer to Section 5 of this report).
Consideration of any submissions made concerning the proposed modification within the period prescribed by the regulations.	The Department has considered the submissions received during the exhibition period (refer to Sections 5 and 6 of this report).
Consideration of section 4.15(1) of the EP&A Act as are of relevance to the development application and the reasons given by the consent authority for the grant of the consent that is sought to be modified.	The Department has assessed the relevant matters for consideration under section 4.15 of the EP&A Act (refer to Section 6 of this report).

The Department is satisfied the proposed modification is within the scope of section 4.55(2) 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(2) of the EP&A Act rather than requiring a new development application to be lodged.

4.2 Consent Authority

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

- the relevant local council has not made an objection

- a political disclosure statement has not been made
- there are less than 25 submissions in the nature of an objection.

4.3 Environmental Planning Instruments

The following EPIs are applicable:

- State Environmental Planning Policy (State and Regional Development) 2011
- Darling Harbour Development Plan No 1
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.

The Department's detailed consideration of the modified proposal against the applicable EPIs are provided in **Appendix B** of this report. The Department is satisfied the modification application has adequately addressed the relevant provisions and is consistent with the EPIs.



5. Engagement

5.1 Department's Engagement

In accordance with clause 10 of Schedule 1 to the EP&A Act and clause 118 of the EP&A Regulation, the Department exhibited the application from 3 April 2019 to 17 April 2019:

- on the Department's website
- at the offices of the Department
- at City of Sydney Council offices.

The modification application was advertised in the Central Courier on 3 April 2019. Previous submitters were also notified of the modification application and invited to make a submission. The modification application was referred to:

- Council
- NSW Police
- Liquor and Gaming NSW.

5.2 Summary of Submissions

During the exhibition period, the Department received three submissions on the proposal. Two were received from government agencies and one from the public. Council neither supported nor objected to the proposal and no government agencies objected. The public submission objected to the proposal.

5.3 Key Issues – Government Agencies

The application was referred to NSW Police and Liquor and Gaming NSW. Liquor and Gaming NSW advised that they would not be providing comments on the proposal, and no comments were received from NSW Police.

5.4 Key Issues – Council/Community

Council key issues

Council neither supported nor objected to the proposal but raised the following matters to be considered in the assessment of the application:

- the assessment of the modification application should include an assessment of the performance of the venue, compliance with the BCA, acoustic impacts and compliance with noise conditions and the management of patrons
- the application should be referred to NSW Police and Liquor and Gaming NSW.

The comments provided by Council are addressed in **Section 6** of this report.

Community issues

One public submission was received objecting to the proposal raising issues regarding acoustic impacts and compliance with operational noise conditions of the SSD Approval.

The issues raised in the public submission are addressed in **Section 6** of this report.

5.5 Response to Submissions

Following the exhibition of the application, the Department placed copies of all submissions received on its website and requested the Applicant provide a response to the comments raised in the submissions.

On 9 May 2019, the Applicant provided a RtS on the comments raised during the exhibition of the proposal. The RtS was made publicly available on the Department's website and no further submissions were received.



6. Assessment

6.1 Section 4.15(1) Matters for Consideration

Under section 4.55(3) of the EP&A Act, the consent authority, must consider the matters referred to in section 4.15(1) of relevance to the development. **Table 3** identifies the matters for consideration under section 4.15 of the EP&A Act that apply to the proposed modification.

Table 3 | Consideration of section 4.15(1) of the EP&A Act

Section 4.15(1) Matters for consideration	Assessment
(a)(i) any environmental planning instrument	The modified proposal remains compliant with the relevant legislation as addressed in Section 4 of this report.
(a)(ii) any proposed instrument	Not applicable.
(a)(iii) any development control plan	Under clause of the SRD SEPP, Development Control Plans do not apply to SSD. However, the Department has considered the relevant provisions of SDCP 2012.
(a)(iia) any planning agreement	Not applicable.
(a)(iv) the regulations	The application meets the relevant requirements of the EP&A Regulation, including the procedures relating to applications (Part 6), the requirements for notification (Part 6, Division 6) and fees (Part 15, Division 1AA) (refer to Section 5 of this report).
(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 development are acceptable and have been appropriately addressed (refer to Section 6 of this report).
(c) the auditability of the site for the development	The site is suitable for the development as addressed in Section 6 of this report.
(d) any submissions	The Department has considered the submissions received (refer to Sections 5 and 6 of this report).
(e) the public interest	The Department considers the modified proposal to be in the public interest as it would result in the allowance of additional patrons at the venue within an ongoing compliance management framework.

The Department has considered the Applicant's modification application and the issues raised in submissions and the RtS in its assessment of the modification request. The Department considers the key issues associated with the proposal to be amenity impacts, BCA compliance, performance of the venue and management of patrons.

6.2 Amenity Impact

The proposal is supported by a noise impact assessment report prepared by Acoustic Studio. The assessment establishes a 'worst-case' scenario, where the bar is operating at the full proposed capacity of 260 persons, at night-time, and where noise levels are continuous over a 15-minute assessment period. The bar is currently subject to trail operating hours being 24 hours per day, 7 days per week until 22 December 2024.

The public submission raised concerns with the potential adverse noise impacts from the rooftop bar and compliance with the post occupation noise Conditions F21 - F27 of the SSD Approval. The public submission was received from a resident located to the east of the site.

The Department has considered the potential noise impact arising from the proposal, issues raised in the submission and Council's comments, noting that:

- the noise impact assessment concludes that the noise impact of the bar operating at capacity of 260 persons will not exceed the noise criteria identified in the post occupation noise Conditions F21 to F27 of the SSD Approval, including the most stringent night-time scenario
- the rooftop bar is predominately orientated to the west which faces onto Darling Harbour and Cockle Bay Wharf, with the eastern side fully enclosed by the building façade. The building façade on the eastern side of the rooftop bar, presents as a physical noise barrier that attenuates noise from bar patrons to noise sensitive receivers to the immediate east including the resident who made the public submission
- no complaints have been received by the Applicant or the Department's Compliance Team regarding noise impacts arising from the current operation of the rooftop bar.

The Department therefore concludes that the proposal will not have adverse noise impacts on noise sensitive receivers and existing noise Conditions F21 to F27 will ensure noise levels are maintained at acceptable levels at all times of operation.

6.3 BCA Compliance

The proposal is supported by a BCA report prepared by Philip Chun. The report includes an assessment of the proposal against the relevant provisions of the BCA and confirms that:

- the existing structure can support the additional patrons, without any further building works
- the increase in patrons will have no effect on the fire resistance of the building
- no changes are required to access and egress arrangements
- existing amenities are sufficient to accommodate 260 people.

The Department is satisfied that the premises is capable of accommodating the increased capacity of 260 people in accordance with the provisions of the BCA without any further building works.

6.4 Performance of the Venue

The Department has considered the current performance of the venue and is satisfied that the increase in capacity to 260 people is acceptable for the following reasons:

- no complaints have been received by the Applicant or the Department's Compliance Team regarding the current operation of the rooftop bar
- existing conditions in the SSD Approval relating to noise and amenity would continue to protect the amenity of surrounding residents and ensure the bar is appropriately managed. This includes conditions:
 - E12, which requires the preparation and implementation of a PoM
 - E14, which requires the preparation of an Acoustic Verification Report confirming compliance with noise conditions F21 to F27
 - F6 to F9, which set operational management restrictions, including maximum capacities of patrons for the executive lounge and rooftop bar
 - F10 to F11, which require the implementation of a complaint's management procedure
 - F13 to F19, which require security monitoring via CCTV cameras

- F21 to F27, which establish appropriate noise levels for nearby residential receivers during the operation of the executive lounge and rooftop bar, including the requirement that no noise be audible within habitable rooms between midnight and 7 am
- F28 and F29, which ensures the behaviour of patrons entering and leaving the premises does not detrimentally affect the amenity of the area
- F31 to F33, which prevent adverse noise impacts from glass crushing and removal
- the proposal does not seek approval to physically alter the building. As such, the proposal would not result in any additional amenity impacts beyond what has already been assessed and approved under the SSD Approval.

The Department considers that the Applicant has managed noise and amenity impacts as per the conditions of the SSD Approval. These results indicate that to date, the Applicant has maintained a good management compliance practice, with minimal environmental impact to surrounding areas. Therefore, based on the performance of the venue, the increase in patron numbers is considered acceptable.

6.5 Management of Patrons

The Department has considered the management of patrons as a result of the proposed increased in patron numbers.

Condition E12 of the SSD Approval required the submission and approval of a PoM by the Department prior to the issue of an Occupation Certificate. On 28 November 2016, the Department approved a PoM fulfilling the requirements of Condition E12. The PoM outlined key management controls to regulate noise impacts, safety, complaints, waste and crowd management. An amended version of the PoM has been submitted with the modification application which updates the patron capacity for the rooftop bar. The revised PoM will ensure the safety and management of patrons at the rooftop bar and that any potential impacts to neighbouring properties is minimised and managed accordingly.

The Department therefore considers the management of the patrons acceptable, subject to the continued implementation of the amended PoM.



7. *Evaluation*

The Department has reviewed the proposed modification and assessed the merits of the application, taking into consideration comments from Council and government agencies. Issues raised in the public submission have also been considered and all environmental issues associated with the modified proposal have been suitably assessed and are considered to be negligible. Consequently, the Department considers the development is in the public interest and should be approved, subject to changes in the recommended modified conditions of consent.



8. Recommendation

It is recommended that the Executive Director, Key Sites and Industry Assessments, as delegate of the Minister for Planning:

- **considers** the findings and recommendations of this report
- **determines** that the application SSD 7014 MOD 5 falls within the scope of section 4.55(2) 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 grant approval to the application
- **agrees** with the key reasons for approval listed in the draft notice of decision
- **modify** the consent SSD 7014
- **signs** the attached approval of the modification (Appendix D).

Rodger Roppolo
Planning Officer
Key Sites Assessments

Recommended by:

David McNamara

Director
Key Sites Assessments



9. Determination

The recommendation is **adopted/not adopted** by:

Sargeant

Anthea Sargeant

5/6/19

Executive Director

Key Sites and Industry Assessments



Appendices

Appendix A – List of Documents

The following supporting documents and supporting information to this assessment report can be found on the Department of Planning and Environment's website as follows:

1. Environmental Impact Statement
<https://www.planningportal.nsw.gov.au/major-projects/project/10606>
2. Submissions
<https://www.planningportal.nsw.gov.au/major-projects/project/10606>
3. Applicant's Response to Submissions
<https://www.planningportal.nsw.gov.au/major-projects/project/10606>

Appendix B – Consideration of Environmental Planning Instruments

The EPIs relevant to the assessment of the modification application are:

- State Environmental Planning Policy (State and Regional Development) 2011
- Darling Harbour Development Plan No 1
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.

COMPLIANCE WITH CONTROLS

State Environmental Planning Policy (State and Regional Development) 2011

The SRD SEPP aims to identify development that is of State significance due to its size, economic value or potential impact. The original development was deemed State significant in accordance with clause 2(b) of Schedule 2 of the SRD SEPP, as the development is located on land within Darling Harbour and had a capital investment value in excess of \$10 million (**Table 1**).

Table 1 | Consideration of the relevant provisions of the SRD SEPP.

State Environmental Planning Policy (State and Regional Development) 2011		
Relevant Sections	Consideration and Comments	Complies?
3 Aims of Policy The aims of this Policy are as follows: (a) to identify development that is State significant development,	The original development was identified as SSD.	Yes
8 Declaration of State significant development: section 89C (1) Development is declared to be State significant development for the purposes of the Act if: (a) the development on the land concerned is, by the operation of an environmental planning instrument, not permissible without development consent under Part 4 of the Act, and (b) the development is specified in Schedule 1 or 2.	The original development was permissible with development consent. The site is specified in Schedule 2.	Yes
Schedule 2 State significant development—identified sites (Clause 8 (1)) 2 Development on specified sites Development that has a capital investment value of more than \$10 million on land identified as being within any of the following	The original development is on land identified as the Darling Harbour Site and had a capital investment value of \$148 million.	Yes

sites on the State Significant Development Sites Map:...		
(b) Darling Harbour Site,		

Darling Harbour Development Plan No 1

The DHDP provides planning principles for development within the Darling Harbour precinct. The site is located within the Darling Harbour precinct area. The modified proposal is consistent with the relevant Planning Principals of the DHDP and will not have any significant adverse impact as considered in **Table 2** below:

Table 2 | Consideration of DHDP

Darling Harbour Development Plan No 1		
Relevant Sections	Consideration and Comments	Complies?
3 Objects (b) to encourage the development of a variety of tourist, educational, recreational, entertainment, cultural and commercial facilities within that area (c) to make provision with respect to controlling development within that area.	The proposed modification will enable an increase in patron numbers for the level 12 rooftop bar, thus contributing to the development of entertainment facilities within Darling Harbour.	Yes
6 Permit required for certain development Development: (a) for the purposes of tourist, educational, recreational, entertainment, cultural or commercial facilities (other than facilities used for pawnbroking or other forms of moneylending)...[or] (d) for any purpose specified in Schedule 1... [includes commercial premises, convention centres; hotels; places of assembly; recreation facilities; refreshment rooms; shops...] ...may not be carried out except with a permit being obtained therefore	The proposed modification relates to an approved use, which is permitted with consent.	Yes

8 Permits required for renovation and demolition (1) The renovation or demolition of a building or work may not be carried out except with a permit being obtained therefore	The proposal does not involve building works.	Yes
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Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The SHC SREP provides planning principles for development within the Sydney Harbour catchment. The site is located within the Sydney Harbour Catchment area. The modified proposal is consistent with the relevant Planning Principles of the SHC SREP and will not have any significant adverse impact on the Sydney Harbour Catchment as considered in **Table 3** below:

Table 3 | Consideration of SREP (Sydney Harbour Catchment) 2005

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005		
Relevant Sections	Consideration and Comments	Complies?
2 Aims of plan (a) to ensure that the catchment, foreshores, waterways and islands of Sydney Harbour are recognised, protected, enhanced and maintained: (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...	The catchment, foreshores and waterways will not be affected by the proposal.	Yes
14 Foreshores and Waterways Area (a) development should protect, maintain and enhance the natural assets and unique	The modified proposal will not impact the natural assets and visual qualities of Sydney Harbour. The modified proposal will maintain	Yes

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

Relevant Sections	Consideration and Comments	Complies?
environmental qualities of Sydney Harbour and its islands and foreshores, (b) public access to and along the foreshore should be increased, maintained and improved, while minimising its impact on watercourses, wetlands, riparian lands and remnant vegetation... (d) development along the foreshore and waterways should maintain, protect and enhance the unique visual qualities of Sydney Harbour and its islands and foreshores...	existing pedestrian connectivity and public access to the foreshore.	
21 Biodiversity, ecology and environment protection	The modified proposal will not have any adverse impacts on the biodiversity or ecology of the area.	Yes
22 Public access to, and use of, foreshores and waterways	The modified development does not affect public access to foreshores and waterways.	Yes
23 Maintenance of a working harbour	The modified proposal will not reduce the capacity of Sydney Harbour to function as a working harbour.	Yes
24 Interrelationship of waterway and foreshore uses	The modified proposal will not have any adverse impacts on waterway and foreshore uses.	Yes
25 Foreshore and waterways scenic quality (a) the scale, form, design and siting of any building should be based on an analysis of: (i) the land on which it is to be erected, and (ii) the adjoining land, and (iii) the likely future character of the locality, (b) development should maintain, protect and enhance the unique visual qualities of Sydney Harbour and its islands, foreshores and tributaries, (c) the cumulative impact of water-based development should not detract from the	It is considered that the modified proposal will not give rise to any adverse impacts on the unique visual qualities of Sydney Harbour. The proposed development does not impact on water based development.	Yes

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005		
Relevant Sections	Consideration and Comments	Complies?
character of the waterways and adjoining foreshores.		
26 Maintenance, protection and enhancement of views (a) development should maintain, protect and enhance views (including night views) to and from Sydney Harbour, (b) development should minimise any adverse impacts on views and vistas to and from public places, landmarks and heritage items, (c) the cumulative impact of development on views should be minimised.	The modified proposal is for an increase in patron numbers, which would not give rise to any significant adverse impacts on the views to and from Sydney Harbour, or from public places, landmarks or heritage items.	Yes

Appendix C – Community views for Draft Notice of Decision

Issue	Consideration
Acoustic Impact	
• The proposal will result in noise impacts to residents. • The rooftop bar needs to ensure compliance with the existing post occupation noise conditions of the development consent.	• The application was supported by a noise impact assessment which concluded that with the bar operating at an increased capacity of 260 persons, it would not exceed the noise criteria identified in the post occupation noise Conditions F21 to F27 of the SSD Approval and will not result in noise impacts to residents. • The development has been operating in accordance with the requirements of the existing post occupation noise conditions of the SSD approval as no complaints have been received by the Applicant or the Department's Compliance Team regarding noise impacts.
<i>Recommended Conditions/Response</i>	
• No changes to the conditions are recommended, as existing conditions (Conditions F21 to F27) will ensure noise impacts are effectively managed and an appropriate level of amenity is maintained to adjoining residents	

Appendix D – Notice of Modification

The Notice of Modification can be found on the Department of Planning and Environment's website as follows:

<https://www.planningportal.nsw.gov.au/major-projects/project/10606>

Appendix E – Consolidated Consent

The Consolidated Consent can be found on the Department of Planning and Environment's website as follows:

<https://www.planningportal.nsw.gov.au/major-projects/project/10606>

