

Andrew Pickles

4A/4 Distillery Drive
PYRMONT
NSW 2009
AUSTRALIA
E pickles@bigpond.net.au

7 February 2019

Department of Planning and Environment
GPO Box 39
SYDNEY
NSW 2001

Attention: Matthew Rosel

Dear Sir

Re: MP08_0098 – Modification 13 – The Star Casino

1. I refer to the above modification application. I have also had an opportunity to read the further letter from Urbis, being an initial response to the further submissions.
2. That document gives rise to the need to question the validity of the application.
3. I note that the City of Sydney made an objection on the basis that the request to modify has not been made within the time limit specified by the SEAR's. The proponent's response addresses that issue with a chronology. However, there is a more significant matter which has perhaps been missed.
4. Clause 3BA of the *Environmental Planning and Assessment (Savings and Transitional and Other Provisions) Regulation 2017* provides as follows:

(1) For the purposes of this clause, the cut-off date is 1 March 2018.

(2) An approved project or a concept plan cannot be modified under section 75W on or after the cut-off date, except as provided by this clause.

(3) Subclause (2) does not apply if the request to modify the approved project or concept plan under section 75W was lodged before the cut-off date. Accordingly, the provisions of this Schedule relating to a modification made pursuant to such a request continue to apply.

(4) A request to modify an approved project or concept plan under section 75W that may be dealt with because of subclause (3) cannot be dealt with under section 75W if:

(a) the request has not been determined by 1 September 2018, and

(b) the Secretary is of the opinion that insufficient information has been provided to deal with the request and notifies the person who made the request that it will not be dealt with under section 75W.

...

(7) To avoid doubt, subclause (2):

(a) applies whether the project remains or has ceased to be a transitional Part 3A project, and

(b) extends to a modification under section 75W in relation to a development consent that is taken to be an approved project pursuant to clause 8J of the Environmental Planning and Assessment Regulation 2000.

5. The effect of this provision, as I understand it, is that a request to modify cannot be dealt with at all if the request is not lodged before 1 March 2018. The request to modify for this project that is available on the Department's website is dated 13 August 2018.
6. Accordingly, unless there was an earlier request to modify, it seems to me that the request to modify is out of time and cannot legally be dealt with.
7. The chronology of events provided by Urbis is largely irrelevant. The fact that there was a three year process leading to the request to modify is beside the point. The Regulation precludes the determination of the request.

Yours faithfully



Andrew Pickles