



NSW GOVERNMENT
Department of Planning

**ALTERATIONS AND ADDITIONS TO
STAR CITY CASINO COMPLEX & NEW
HOTEL ON THE SWITCHING STATION SITE,
PYRMONT**

***Proposed by SYDNEY HARBOUR CASINO
PROPERTIES PTY LTD***

MP 08_0098 (MOD 1)

Modification of Minister's Approval under section 75W
of the *Environmental Planning and Assessment Act*
1979

March 2009



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1. EXECUTIVE SUMMARY

This is a report on an application seeking to modify the Project Approval for alterations and additions to the Star City Casino Complex and New Hotel on the Switching Station Site project, approved under MP 08_0098.

The Star City Casino Complex and New Hotel, Pyrmont project application was approved by the Minister for Planning on 27 January 2009 and comprised the following:

- Construction of a 10 storey hotel above a 3 storey podium containing ancillary retail, gaming and conference facilities on the currently vacant Switching Station site;
- Additional basement car parking, to a maximum of 3,000 car parking spaces across the whole site, to be accessed via the existing Casino complex car park;
- Re-development of the retail arcade through the ground floor level of the complex, linking Pyrmont Bay Park to the intersection of Union and Pyrmont Streets, and to Jones Bay Road;
- The redevelopment of the eastern (Pirrama Road) frontage of the Casino building currently occupied by large external stairs, to contain additional restaurants, retail outlets, gaming space, other entertainment and tourist related facilities, a new entry and a driveway providing a new vehicular drop-off to the Casino; and
- Works to the exterior of the existing Casino tower buildings.

On 6 February 2009, Sydney Harbour Casino Properties Pty Ltd (the Proponent) submitted an application to modify the Part 3A project approval pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The Proponent is seeking to modify the following conditions:

- A6 – External Signage;
- B1 – External artwork and lighting;
- B9 – Public Domain; and
- B11 (6) – Sydney Water; and B17 – Consolidation of allotments.

The above conditions are all sought to be modified in order to provide greater clarity to the conditions and to alter the timing of compliance requirements. This modification application represents the first modification to the approved project.

The modifications are minor and will not result in amenity impacts to the surrounding properties, and therefore it was not publicly notified. The modifications will not compromise the public benefits achievable under the original approval. The Department recommends that the modification application be approved as set out in the Instrument of Modification Approval (**TAG A**).

2. THE SITE

The Casino complex site (see **Figure 1**) is bounded by Pirrama Road to the north-east, Jones Bay Road to the north-west, Pyrmont Road to the south-west, Union Street to the south and Edward Street to the east. The Switching Station Site is located in the southern portion within the Casino complex site and has a frontage to Union Street. The site is within the City of Sydney local government area and is owned by the Casino Control Authority.



Figure 1. The subject site

3. MAJOR PROJECT APPROVAL

On 27 January 2009, the Minister for Planning approved a major project MP 08_0098 for the alterations and additions to the casino complex and a new hotel development on the Switching Station Site, Pyrmont.

The original estimated project cost of the development was \$350 million. Key issues considered in the Department's assessment of the original application included the following:

- Built form, building height and urban design;
- Amenity impacts on surrounding locality;
- Traffic impacts;
- The public domain; and
- The public interest.

These issues were addressed either by way of documentation lodged by the Proponent or via conditions of approval.

The project application approval provided for construction of a new hotel and podium level extension on the Switching Station site and alterations and additions to the existing casino building. This comprised:

- Construction of a 10 storey hotel above a 3 storey podium containing ancillary retail, gaming and conference facilities on the currently vacant Switching Station site;
- Additional basement car parking, to a maximum of 3,000 car parking spaces across the whole site, to be accessed via the existing Casino complex car park;
- Re-development of the retail arcade through the ground floor level of the complex, linking Pyrmont Bay Park to the intersection of Union and Pyrmont Streets, and to Jones Bay Road;
- The redevelopment of the eastern (Pirrama Road) frontage of the Casino building currently occupied by multiple external stairs, to contain additional restaurants, retail outlets, gaming space, other entertainment and tourist related facilities, a new entry and a driveway providing a new vehicular drop-off to the Casino; and
- Works to the exterior of the existing Casino tower buildings.

A copy of the original approval is at **TAG B** and a copy of the original report is at **TAG C**.

4. DESCRIPTION OF PROPOSED MODIFICATIONS

On 6 February 2009, Sydney Harbour Casino Properties Pty Ltd (the Proponent) submitted to the Director General a request for modification of the approved development to permit the following changes:

- Modification to Condition A6 – External Signage to modify the condition to delete the reference to video signage in the condition;
- Modification to Condition B1 – External art work and lighting to modify the condition to specify art work and feature lighting as the works the condition relates to;
- Modification to Condition B9 – Public Domain to modify the condition to include specific reference to public domain works;
- Modification to Condition B11 (6) – Sydney Water to replace the condition requiring a section 73 Certificate prior to a Construction Certificate, with a condition to obtain a Notice of Requirements. Accordingly, an appropriate condition requiring a section 73 certificate prior to the issue of an Occupation Certificate will be imposed; and
- Modification to Condition B17 – Consolidation of allotments to modify the condition to amend the timing of when the condition is to be met, from the release of the first Construction Certificate, to the issue of the final Occupation Certificate.

5. STATUTORY CONTEXT

5.1 MODIFICATION OF A MINISTER'S APPROVAL

The modification application has been lodged with the Director General pursuant to section 75W of the EP&A Act. Section 75W provides for the modification of a Minister's approval including *"revoking or varying a condition of the approval or imposing an additional condition of the approval"*.

The Minister's approval for a modification is not required if the project as modified will be consistent with the existing approval. In this instance, the proposed modification is consistent with the existing approval, however the modification requires changes to conditions of the Minister's approval, and accordingly requires formal application and approval.

5.2 ENVIRONMENTAL ASSESSMENT REQUIREMENTS (DGR'S)

It is considered unnecessary to notify the proponent of environmental assessment requirements, pursuant to section 75W (3) with respect to the proposed modification as sufficient information was provided to the Department to consider the application, and issues are not different to the original DGR's.

6. CONSULTATION AND EXHIBITION

Under section 75W of the EP&A Act, a request for a modification of an approval does not require public exhibition. However, under section 75X (2) (f) of the EP&A Act, the Director General is to make publicly available requests for modifications of approvals given by the Minister. In accordance with clause 8G of the *Environmental Planning and Assessment Regulation 2000*, the request for the modification was placed on the Department's website.

The modification application was not required to be referred to any agencies as the modifications are primarily to provide further clarity around the conditions and modifications regarding timing of compliance with conditions.

7. CONSIDERATION OF PROPOSED MODIFICATIONS.

7.1 SIGNAGE AND EXTERNAL ART WORK AND LIGHTING

Condition A6 – External Signage

Proposed external signage, including video signage, does not form part of this approval and is to be subject to a separate development application lodged with Council.

The proponent seeks to modify Condition A6 to delete reference to video signage to clarify the intent of Conditions A6 and B1. The proponent's use of the video facilities can be used to provide facilities to display external art work and lighting and video signage. Given details of any proposed external artwork and feature lighting require further approval from the Department prior to issue of a Construction Certificate, it is considered any proposed video signage or display shall also be subject to approval from the Department. The proposed modification to Condition A6 to delete reference to video signage is considered satisfactory.

Condition B1 – External art work and lighting

*The Proponent is to commission a reputable and appropriately experienced artist to develop artwork and feature lighting displays to the Pirrama Road frontage. Details are to be approved by the Department prior to the issue of a Construction Certificate for any **art work and feature lighting** works to the Pirrama Road frontage, **and any video signage or display proposed on the site.***

Condition B1 of the approval relates to details of external art and lighting display works to be exhibited at the Pirrama Road frontage and specifies at what stage the details need to be provided. The application requests to modify the consent to specify which details are required for compliance with the condition. The current condition refers to any works relating to Pirrama Road frontage. The Proponent seeks to amend this condition for it to be satisfied prior to the issue of a Construction Certificate relating to the art work and feature lighting works. This modification is requested to ensure there is no confusion as to what details are required to comply with the condition and to provide greater clarity and certainty for compliance with the condition.

Given that the amendment will not have any environmental impact and is requested to provide greater certainty to the requirements of the condition, the amendment is considered satisfactory.

As a result of the clarification of the intent of Conditions A6 and B1, any proposed video signage or similar display will require approval from the Department. This is consistent with the requirements for any proposed external art work and feature lighting displays.

7.2 PUBLIC DOMAIN WORKS

Condition B9 – Public Domain

All works associated with the approval which encroach upon or are immediately adjacent to Council's public domain areas are to be designed and developed in consultation with Council. Details to be provided prior to issue of a Construction Certificate for public domain works. The RLs and alignment, for any works associated with the approval which encroach upon or are immediately adjacent to Council's public domain areas, must be provided to the satisfaction of the Department prior to the issue of a Construction Certificate for the relevant works.

The application seeks to amend Condition B9 to include specific reference to public domain works in the condition. The condition would be amended so that the details would be provided prior to the issue of any Construction Certificate for any public domain works. The proponent has requested the amendment to ensure clarity is provided to the intent of the condition.

The intent of the proposed modification is considered to be consistent with the intent of the original condition. Accordingly, the proposed modification is considered satisfactory and is recommended to be included in the amended conditions. The Department also considers it appropriate to add at the end of the condition, a requirement to ensure all levels for works on or adjacent to the public domain are satisfactory. This requirement has been included above.

7.3 SYDNEY WATER CERTIFICATE

Condition B11 (6) – Sydney Water

- (1) An application is to be submitted to Sydney Water for the discharge of trade waste into the sewerage system.*
- (2) Any proposed discharge to the wastewater system from the proposed Membrane Bioreactor and Reverse Osmosis Unit will be required to meet the acceptance standards as specified in Sydney Water's Trade Waste Policy and Management Plan.*
- (3) The appropriate level of backflow prevention containment on the drinking water services and fire services supplying the property is required to be installed.*
- (4) The design of the proposed diversion of stormwater to a stormwater harvesting tank on the Star City Hotel site is to be independently checked, prior to issue of the Construction Certificate, verifying that no significant flow diversions will occur to the detriment of the capacity of any part of the Edward Street stormwater drainage system.*
- (5) The development is to implement best practice urban stormwater management using Water Sensitive Urban Design including:
 - (a) Treat stormwater runoff to NSW EPA draft practice treatment objectives:
 - (i) 80% reduction in Total Suspended Solids*
 - (ii) 45% reduction in Total Phosphorus*
 - (iii) 45% reduction in Total Nitrogen**
 - (b) Maximise stormwater reuse through integrated water cycle management, which can reduce potable water demand and assist in achieving the above pollutant load reduction objectives.**
- ~~(6) A Section 73 Certificate is to be obtained from Sydney Water. A Notice of Requirements is to be obtained from Sydney Water prior to issue of a Construction Certificate for any new useable floor area.~~*

Plans and details demonstrating compliance with B8(1) – (6) are to be submitted to the Certifying Authority prior to issue of a Construction Certificate.

Condition B11 (6) requires a section 73 Certificate to be obtained from Sydney Water prior to issue of a Construction Certificate. However, section 73 Certificates are not issued until the completion of all physical works. The modification seeks to amend the condition to require a Notice of Requirements prior to the issue of any Construction Certificate for any new floor area. The proposed modification is considered satisfactory.

Upon application for a section 73 Certificate to Sydney Water, Sydney Water will issue a Notice of Requirements outlining the conditions to be met to obtain a certificate. Upon meeting all the requirements, a section 73 Certificate will then be issued. Accordingly, the following Condition E9 will be imposed to be satisfied prior to the issue of an Occupation Certificate.

Condition E9 – Sydney Water

Prior to the issue of a relevant Occupation Certificate, a Section 73 Certificate is to be obtained from Sydney Water and shall be submitted to Council or the Principal Certifying Authority.

It is noted that a small clerical error exists in the reference to compliance with B8(1) – (6). Any modified approval will also be modified to specify compliance with B11(1) – (6) to ensure accurateness and certainty.

7.4 CONSOLIDATION OF ALLOTMENTS

Condition ~~B17~~ E8 – Consolidation of Allotments

*The Switching Station allotment (Lot 121 DP 828957) is to be consolidated into the allotments comprising the Casino development. A plan of consolidation prepared by a registered surveyor and six (6) paper copies are to be submitted to Council for signature prior to registration at the Lands and Property Information NSW (Department of Information and Land Management). Evidence of consolidation from the Lands and Property Information NSW shall be submitted to **the consent authority and Council or the Principal Certifying Authority** prior to the commencement of works on the Switching Station site or the release of the first construction certificate for the Switching Station site, whichever occurs first **issue of an Occupation Certificate for the podium or hotel, whichever occurs first.***

Condition B17 of the approval specifies that evidence of the consolidation of the allotments is required prior to the commencement of works or the release of the first Construction Certificate. The proponent believes that the consolidation works do not need to be completed prior to commencing works and proposes to amend this condition to allow compliance prior to issue of a final Occupation Certificate.

The intent of the condition is to ensure that the various lots of the site are consolidated. It is considered that the timing of when the condition needs to be complied with can be amended as long as the condition is met prior to use or occupation of the site. Given that the lots are currently under single ownership and given the connection between the existing and proposed buildings, it is acceptable for this lot consolidation to occur later in the construction process. The proposed amendment will have no material or environmental impact and the proposed modification is considered satisfactory.

8. PUBLIC BENEFIT

The public benefits resulting from the approved MP 08_0098 include:

- Improved and enhanced entertainment and recreational facility;
- Improved urban and aesthetic design to the site and locality;
- Improved pedestrian connections;
- Increased employment opportunities through the development of the hotel and commercial/retail uses; and
- The further development of Sydney as a world class tourist destination

The proposed modifications would not compromise the projects ability to continue to provide these public benefits.

9. MODIFICATIONS TO CONDITIONS OF APPROVAL

The Department recommends that Conditions of Approval apply to the proposed modifications. These are included at **TAG A**.

10. DELEGATION

Under the instrument of delegation dated 7 June 2007, the Minister has delegated his functions under section 75W of the EP&A Act relating to modifying Part 3A approvals to the Executive Director Strategic Sites and Urban Renewals.

Having regard to the instrument of delegation, it is considered appropriate that the application be determined under delegation.

11. CONCLUSION

Under section 75W (4) of the EP&A Act, the Minister may modify the approval (with or without conditions) or disapprove the modification. This assessment report describes the Department's assessment of the requested modifications and supporting documentation as provided by the Proponent, and recommends approving the proposed modifications, subject to the amendments as discussed.

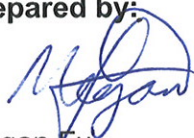
The proposed modifications are minor and do not result in significant changes to the overall development. The proposal achieves the same objectives as assessed for the originally approved development under Major Project 08_0098 and does not alter the overall nature, need or justification of the approved project.

12. RECOMMENDATION

It is recommended that the Executive Director, Strategic Sites and Urban Renewal, as delegate of the Minister for Planning:

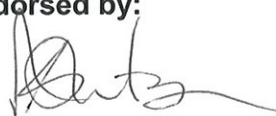
- (a) **Consider** the findings and recommendations of this report; and
- (b) **Approve** the modification, subject to conditions, under section 75W of the *Environmental Planning and Assessment Act, 1979*; and
- (c) **Sign** the attached Instrument of Modification Approval (**TAG A**).

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APPENDIX A. Instrument of Modification Approval
