

## ASSESSMENT REPORT

### Old Clare Hotel, Block 3A Central Park, Chippendale 11\_0089 MOD 5

#### 1. INTRODUCTION

This report is an assessment of an application seeking to modify the approval (11\_0089) for the redevelopment of the Old Clare Hotel at Block 3A in the Sydney local government area. The application has been lodged by the Planning Lab on behalf of SONRAC Pty Ltd (the Applicant) pursuant to section 4.55 (1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The proposal seeks to amend Condition B23(c) of the approval as it currently restricts the use of a self-closing door, which is required to provide a rooftop bar with access to the toilets, fire stairs and a store room.

#### 2. SUBJECT SITE

The Central Park site is located to the south-west of the Sydney Central Business District (CBD). The site has a total area of approximately 5.8 hectares and is bound by Abercrombie Street to the west, Regent Street to the east, Broadway to the north and Wellington Street to the south. The Central Park site is a major urban renewal site and comprises several, high density mixed use and residential buildings (see **Figures 1 and 2**)

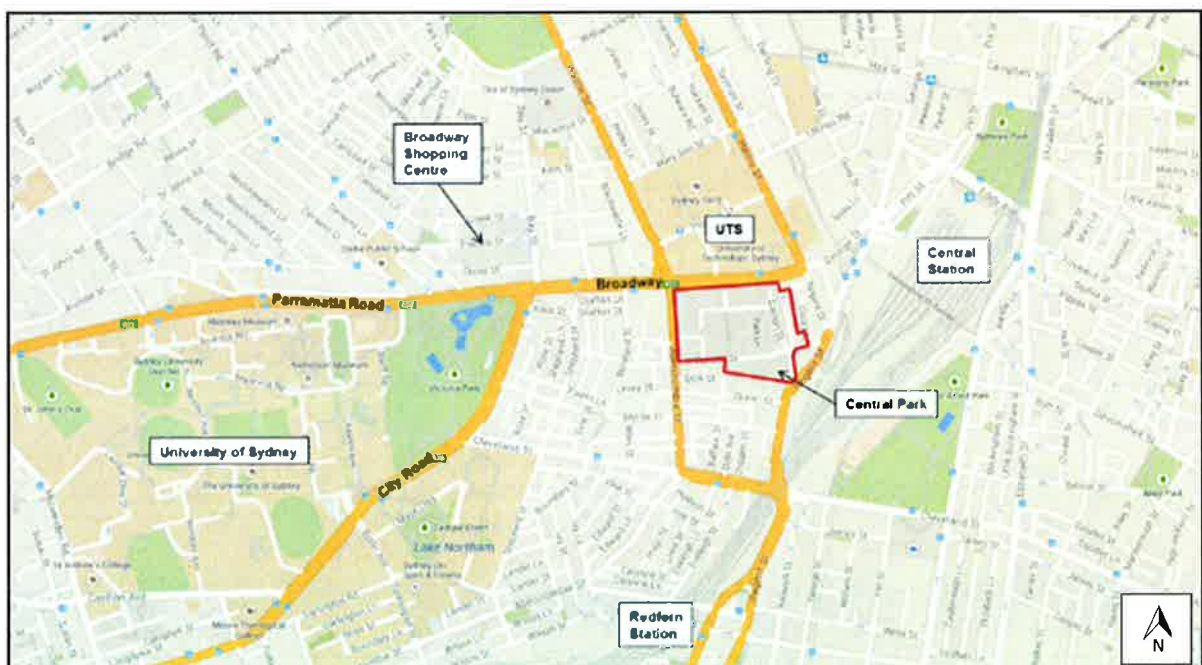


Figure 1: Central Park site location (Base source: Nearmap)

The subject site is known as Block 3A and is located in the north-east corner of the Central Park site (refer to **Figure 2**). It contains the refurbished Old Clare Hotel and Administration Building which, together comprise a 60 bed boutique hotel and associated facilities, including rooftop pool and bar. The buildings are local Heritage Items under the Sydney Local Environmental Plan 2012 (SLEP). The site is bounded by Broadway to the north, Carlton Street to the west, Kensington Street to the east and Blocks 3B and 3C to the south.

The neighbouring blocks within the Central Park precinct, to the west and south of the site, comprise high density mixed-use residential and student accommodation developments. The blocks to the east of the site comprise low-rise commercial buildings as well as a six storey mixed-use residential building fronting Broadway.

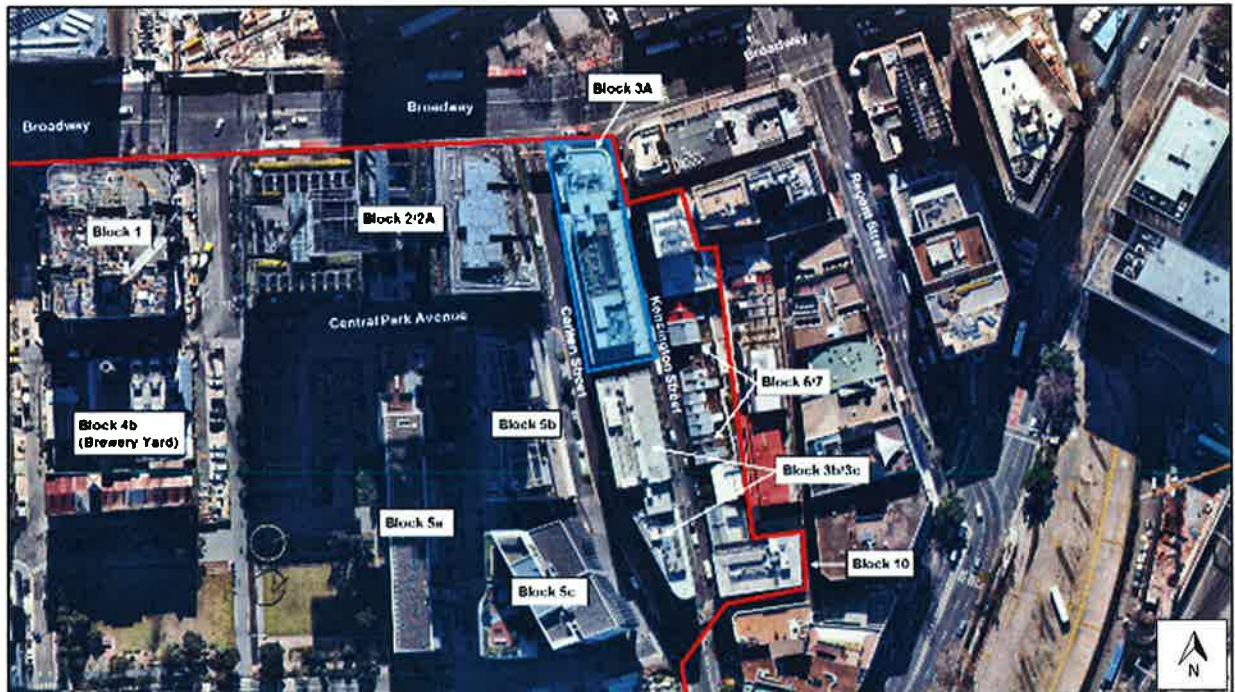


Figure 2: Site location (highlighted blue) within the Central Park site (outlined red)  
(Base source: Nearmap)

### 3. APPROVAL HISTORY

#### 3.1 Concept Approval

On 9 February 2007, the then Minister for Planning approved a Concept Plan (MP 06\_0171) for redevelopment of the site for a residential, commercial, retail uses and public open space development (Concept Approval). Key aspects of the Concept Approval (as modified) include:

- maximum 255,621 square metres (m<sup>2</sup>) gross floor area (GFA)
- a new park (6,000 m<sup>2</sup>) and open space areas
- a contribution of \$32 million for the provision of affordable housing within the locality
- retention of 33 heritage items associated with the former brewery and the adaptive reuse of existing buildings.

The Concept Approval established the framework for the assessment of subsequent detailed applications within the Central Park Precinct and has been modified on 13 occasions.

#### 3.2 Project Approval

On 5 April 2013, the then Executive Director, Development Assessment Systems and Approvals, granted Project Approval for MP 11\_0089 comprising:

- construction of a boutique hotel consisting of:
  - 60 hotel rooms



- a total GFA of 4,595.90 m<sup>2</sup>
- 1,098 m<sup>2</sup> of food and drink premises, including three restaurants and a lounge
- conference and meeting facilities, staff offices and amenities
- a rooftop deck and pool
- storage and loading facilities
- a single storey addition to the Old Clare Hotel and a two-storey addition to the Administration Building
- construction of a new, glazed link between the two buildings to create a hotel foyer/entry space.

The proposal has been modified on four occasions, as summarised at **Table 1**.

**Table 1:** Summary of modifications to the Project Approval

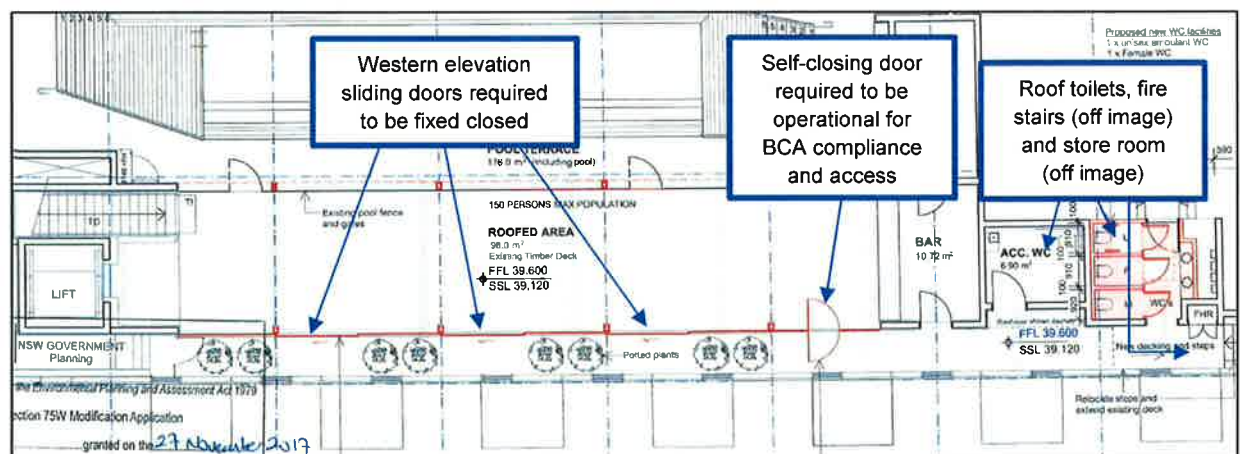
MOD No.	Summary of Modifications	Approval Date
1	Internal alterations at basement to second floor levels, relocation of the rooftop pool, increase pool canopy by 100 mm and modification of external facades.	1 March 2014
2	Modification to the timing of the implementation of façade heritage conservation works.	26 May 2015
3	Establishment of hours of operation of the rooftop pool terrace bar and erection of rooftop structures.	27 November 2017
4	Conversion of existing basement storage space into a day spa/salon and associated internal alterations, and establishing the hours of operation for the day spa/salon.	28 February 2018

#### 4. PROPOSED MODIFICATION

On 27 November 2017, the then Planning Assessment Commission (Commission) approved a rooftop bar and associated roof structures at the Old Clare Hotel. As part of the approval, the then Commission imposed condition B23(c), which requires the western façade of the rooftop structure to be constructed of fixed glazing to minimise noise being transmitted from the bar to neighbouring residential apartments. However, the condition as currently worded does not permit the use of a self-closing door which provides the bar with access to the toilets, fire stairs and a store room. Therefore, the Applicant seeks to modify the condition to allow the self-closing door to be used, as it is essential for the operation of the approved rooftop bar. The Applicant also states that use of the self-closing door is essential for compliance with the Building Code of Australia (BCA) fire egress requirements.

**Figure 3** identifies the location of the roof structure approved as part of MOD 3 and the location of the self-closing door on the western façade.

No other changes are proposed as part of the application.



**Figure 3:** MOD 3 approved roof structure (outlined and highlighted in red) (Base source: Approved MOD 3 Plans)

## 5. STATUTORY CONSIDERATION

### 5.1 Part 3A Transition to State Significant Development

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

Following amendments to the EP&A Act and the associated EP&A (ST&OP) Regulations that commenced on 1 March 2018, the power to modify Part 3A approvals under former section 75W has been wound up for modification applications submitted after 1 March 2018. In order to modify a transitional Part 3A approval, the Minister for Planning can declare the development to be SSD by order under clause 6 of Schedule 2 of EP&A (ST&OP) Regulations. If a declaration is made the approval becomes a development consent which can be modified under Part 4 of the EP&A Act if it meets the relevant test.

On 11 July 2018, the Director, Regional Assessments (as delegate of the Minister for Planning), made an order under clause 6 of Schedule 2 declaring the development the subject of the project approval to be SSD. This order was published in the NSW Government Gazette on 20 July 2018 and took effect from that date.

The effect of this order is that the:

- the project approval is taken to be a development consent under Part 4 for the carrying out of the development
- modification request is taken to be an application to modify under section 4.55 of the EP&A Act.

### 5.2 Modification of approval

Section 4.55(1A) of the EP&A Act requires the consent authority to be satisfied that the following matters are addressed in respect of all applications that seek modification approvals:

Table 2: Matters for consideration

Section 4.55(1A) matters for consideration	Comment
That the proposed modification is of minimal environmental impact	<b>Section 7</b> of this report provides an assessment of the impacts associated with the proposal. The Department is satisfied that the proposed modifications will have minimal environmental impacts.
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 proposed modification seeks approval for minor changes and does not result in any additional adverse impacts on the surrounding area. On this basis, the proposal would result in development that is substantially the same as the originally approved development.
The application has been notified in accordance with the regulations	The modification application has been notified in accordance with the regulations. Details of the notification are provided in <b>Section 6</b> of this report.
Any submission made concerning the proposed modification has been considered.	The Department did not any receive submissions on the proposal.

### 5.3 Environmental Planning Instruments

The following EPIs are relevant to the application:

- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy 55 – Remediation of Contaminated Land
- State Environmental Planning Policy 64 – Advertising and Signage
- Sydney Local Environmental Plan 2005 and 2012.

The Department undertook a comprehensive assessment of the redevelopment against the above-mentioned EPIs in its original assessment. The Department has considered the above EPIs and is satisfied that the modification is generally consistent with the EPIs.

#### **5.4 Approval Authority**

The Minister for Planning is the approval authority for the application. However, the Independent Planning Commission (IPC) may determine the proposal as the modification relates to a condition imposed by the then Commission.

### **6. CONSULTATION**

The modification application was made publicly available on the Department's website and referred to Sydney City Council (Council) for comment. Due to the minor nature of the proposed modification, it was not exhibited by any other means.

**Council** advised they would not be providing comments on the modification.

**No public submissions** were received.

### **7. ASSESSMENT**

The application seeks to amend condition B23(c) of the approval as it currently restricts the use of the self-closing door, which is required to provide a rooftop bar with access to toilets, fire stairs and a store room.

The Department notes the original proposal included large sliding doors in the western elevation of the rooftop structure. Condition B23(c) was imposed to replace the sliding doors with fixed glazing to further mitigate noise impacts associated with the rooftop bar. However, the condition was never intended to restrict the use of the self-closing door, providing access to the toilets, fire stairs or store room.

The Proponent submitted an acoustic statement to assess the potential noise impacts associated with the proposal. The acoustic statement confirms the original assessment included consideration of access doors within the western elevation of the rooftop structure and as such, the findings of the original assessment are still valid. The acoustic statement concluded the proposal would comply with the established noise criteria and would not lead to adverse noise emissions from the site.

The Department has considered the proposed modification as well as the previous assessment and determination and considers the proposal is acceptable as:

- condition B23 (c) is not intended to restrict the use of the self-closing door, but rather, to replace large sliding doors in the western elevation of the roof structure with fixed glazing
- it would not result in any significant noise impacts on surrounding residents beyond those already assessed and approved
- it would allow the development to comply with BCA requirements for fire egress and improve safety during an emergency
- it would provide access to the toilets, store room and fire stairs located on the roof level, which are essential for the operation of the approved rooftop bar
- no other physical or operational changes are proposed.

The Department also notes the existing approval includes a suite of conditions including strict noise limits and requirements for noise monitoring, venue management and restricted operating hours. The Department is satisfied these conditions would continue to appropriately mitigate and manage potential noise impacts associated with the operation of the bar.

The Department recommends the Plan of Management (POM) for the venue be updated to include measures to manage the use of the area providing access to the toilets, to minimise any potential amenity impacts. Subject to amending the POM, the Department is satisfied that use of the self-closing door would not lead to any adverse noise impacts on the neighbouring residential properties.

## 8. CONCLUSION

The Department has assessed the modification application and supporting information in accordance with the relevant requirements of the EP&A Act.

The Department's assessment concludes that the proposal is acceptable as it would:

- not result in any significant noise impacts beyond those already assessed and approved
- ensure the rooftop bar complies with BCA requirements for fire egress
- provide access to the toilets, fire stairs and store room, which are essential for the operation of the rooftop bar.

The Department therefore considers the proposed amendment to condition B23(c) is approvable. This assessment report is hereby presented to the IPC for determination.

Recommended by:



**Anthony Witherdin**  
Director  
Regional Assessments

Recommended by:



**Chris Ritchie** 20/8/18.  
Acting Executive Director  
Key Sites and Industry Assessments

## **APPENDIX A: MODIFICATION CONSENT**

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A copy of the modified consent can be found on the Departments website at:

[http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=9396](http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9396)

## **APPENDIX B: SUPPORTING INFORMATION**

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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. Modification application

[http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=9396](http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9396)