



Star Casino Complex and Switching Station Modification 18

Changes to Multi-Use Entertainment Facility
State Significant Development Modification Assessment
(MP08_0098 MOD 18)

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Glossary

Abbreviation	Definition
Applicant	Foundation Theatres Pty Ltd
BCA	Building Code of Australia
Commission	Independent Planning Commission
Council	City of Sydney
Department	Department of Planning and Environment
EPA	Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2021</i>
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
FRNSW	Fire and Rescue NSW
HNSW	Heritage NSW
LEP	Local Environmental Plan
Minister	Minister for Planning
MUEF	Multi-Use Entertainment Facility
NIA	Noise Impact Assessment
RMS	Roads and Maritime Services, TfNSW
Planning Secretary	Secretary of the Department of Planning and Environment
Planning Systems SEPP	<i>State Environmental Planning Policy (Planning Systems) 2021</i>
RL	Relative Level
SEPP	State Environmental Planning Policy
SSD	State Significant Development
Sydney LEP	<i>Sydney Local Environmental Plan 2012</i>
TfNSW	Transport for NSW
VIA	Visual Impact Assessment

Executive Summary

This report is an assessment of a Section 4.55(2) modification application to the Star Casino Complex and Switching Station Site at 20-80 Pyrmont Street, Pyrmont, Sydney (MP08_0098). The application has been lodged by Ethos Urban, on behalf of Foundation Theatres Pty Ltd (the Applicant).

The proposal seeks consent for alterations and additions to the Multi Use Entertainment Facility (MUEF) in the northern part of The Star Casino complex, including:

- conversion of the MUEF into a two-theatre complex
- construction of a new fly tower
- construction of new dressing room and plant and equipment areas
- internal alterations to foyer and pre-event spaces.

The Application is being referred to the Independent Planning Commission (IPC) as the Applicant has disclosed a reportable political donation.

Engagement

The Department exhibited the modification application from 12 May to 25 May 2022 (14 days), notified City of Sydney Council, relevant government agencies, surrounding properties and previous submitters to the original development.

The Department received a submission from Council, who initially objected to the proposal and five submissions of advice from government agencies. The Department also received nine public submissions made up of three objections, five providing comments and one submission in support of the proposal.

Submissions supported the additional performance space but were concerned with the height, bulk and scale of the alterations, view loss impacts, noise impacts from construction and operation and traffic and access impacts.

The Applicant amended the proposal in response to the issues raised in submissions. Key changes include:

- amending the external shell of the fly tower to reduce its bulk
- reducing the height of the fly tower, proposed dressing room space and plant and equipment areas
- removing an outdoor terrace that would be used by performers
- revising the materials and finishes of the additions to respond to existing built form on the site.

Assessment

The Department's has considered the merits of the proposal in accordance with the relevant matters under section 4.15(1) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), relevant

Environmental Planning Instruments, the reasons for granting the original approval, the issues raised in the submissions and the Applicant's response.

The Department considers the proposal is acceptable for the following reasons:

- it is substantially the same development as it existed following its transition to SSD
- the new built form complies with the applicable height and FSR controls at this location under the Sydney LEP
- the revised design of the proposal minimises its bulk, scale and visual impact to the greatest extent while delivering the functional requirements of the facility
- the proposal is considered to achieve an appropriate design outcome through a consistent architectural expression with the existing MUEF and use of high-quality materials
- the reduced bulk and scale of the proposal minimises view loss impacts from nearby residential properties and it would not result in any additional privacy or off-site overshadowing impacts
- the proposal would not result in any significant noise, vibration or traffic impacts and any residual impacts can be appropriately managed through mitigation measures and management plans
- is in the public interest as it will provide additional entertainment facilities in Sydney for a range of artistic and theatrical productions.

Overall, the Department considers the proposal is acceptable as it is consistent with the strategic planning framework for the site, would not result in adverse amenity, privacy or overshadowing impacts and would provide additional art and cultural facilities in Sydney.

The Department's assessment therefore concludes the proposal is approvable and would result in benefits to the local community and NSW and is therefore in the public interest, subject to appropriate conditions.

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1 Introduction

1.1 Background

- 1.1.1 This report provides the NSW Department of Planning and Environment's (the Department's) assessment of an application to modify the development consent (MP08_0098) at the Star City Casino Complex, Pyrmont in the City of Sydney Local Government area.
- 1.1.2 The modification application seeks approval for alterations and additions to the Multi-Use Entertainment Facility (MUEF) for new performance space, facilities and infrastructure.
- 1.1.3 The application has been lodged by Ethos Urban on behalf of Foundation Theatres (the Applicant) pursuant to section 4.55(2) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

1.2 The Site

- 1.2.1 The Star Casino complex is located at 20-80 Pyrmont Street on the western side of Darling Harbour. The site is bound by Jones Bay Road to the north, Pirrama Road and Edward Street to the east, Union Street to the south and Pyrmont Street to the west (**Figure 1**).

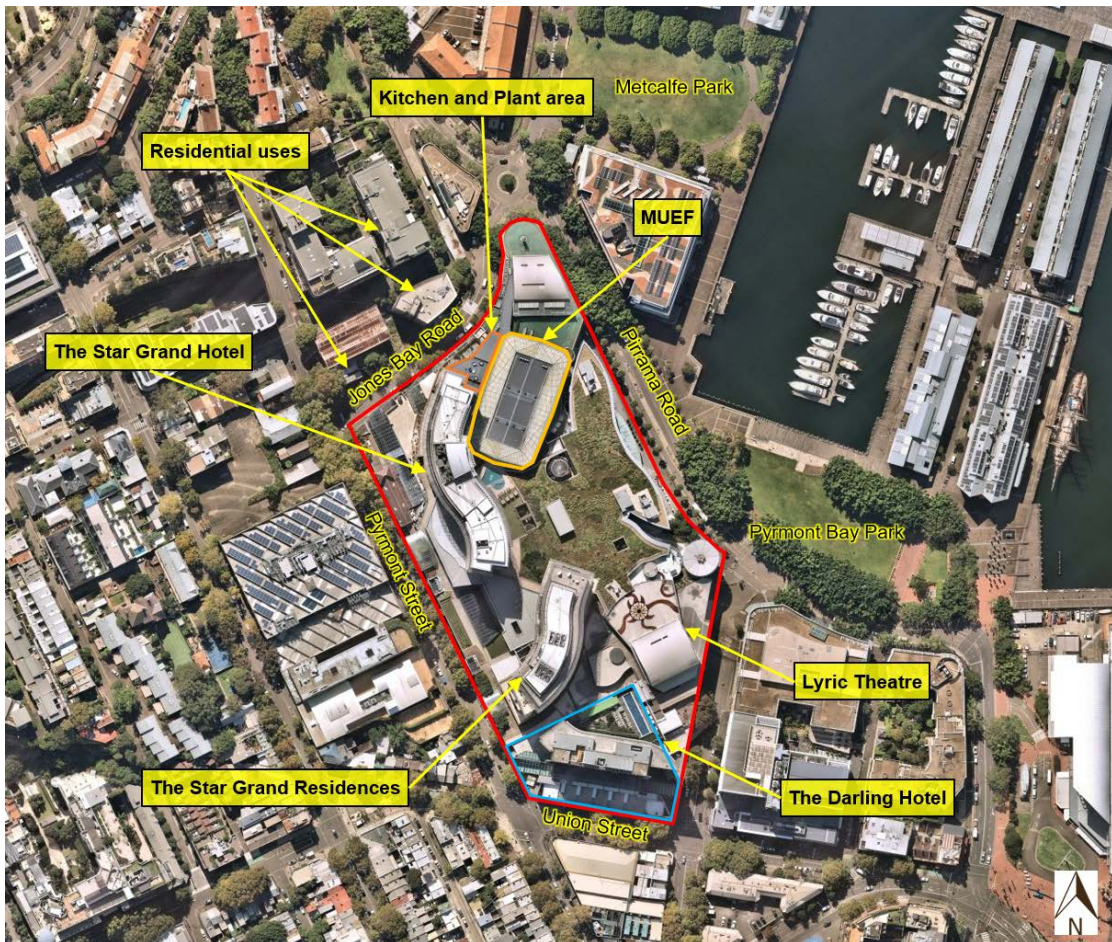


Figure 1 | Local Context Map (Source: Nearmap)

1.2.2 The site is irregular in shape with a total area of 39,206 m². It is legally described as Lot 500 DP 1161507, Lots 301 and 302 DP 873212, Lot 211 DP 870336, Lot 201 DP867855 and Lot 1 DP 867854.

1.2.3 The site is owned by Place Management NSW, who has provided land-owners consent.

1.2.4 Existing facilities on the site include:

- the MUEF (**Figure 2** and **Figure 3**), with a capacity of 3,000 seated patrons or 4,000 standing patrons
- retail, gaming areas, restaurants, bars, the Sydney Lyric Theatre, 480 hotel rooms/serviced apartments across three towers and basement parking
- ‘The Star’ light rail stop, car parking, drop off area and one way service link for coaches and service traffic within the basement
- the locally heritage-listed former Pyrmont Power Station Administration Building (also referred to as the Sydney Electric Light Station Building)

1.2.5 Surrounding development includes:

- To the North: residential and mixed-use development, including the Watermark Apartments, Watermark Pavilion and residential terraces on Pyrmont Street
- To the East: Pyrmont Bay Park and the Sydney Wharf Apartments
- To the South: existing commercial development
- To the West: existing commercial development, offices and residential uses.

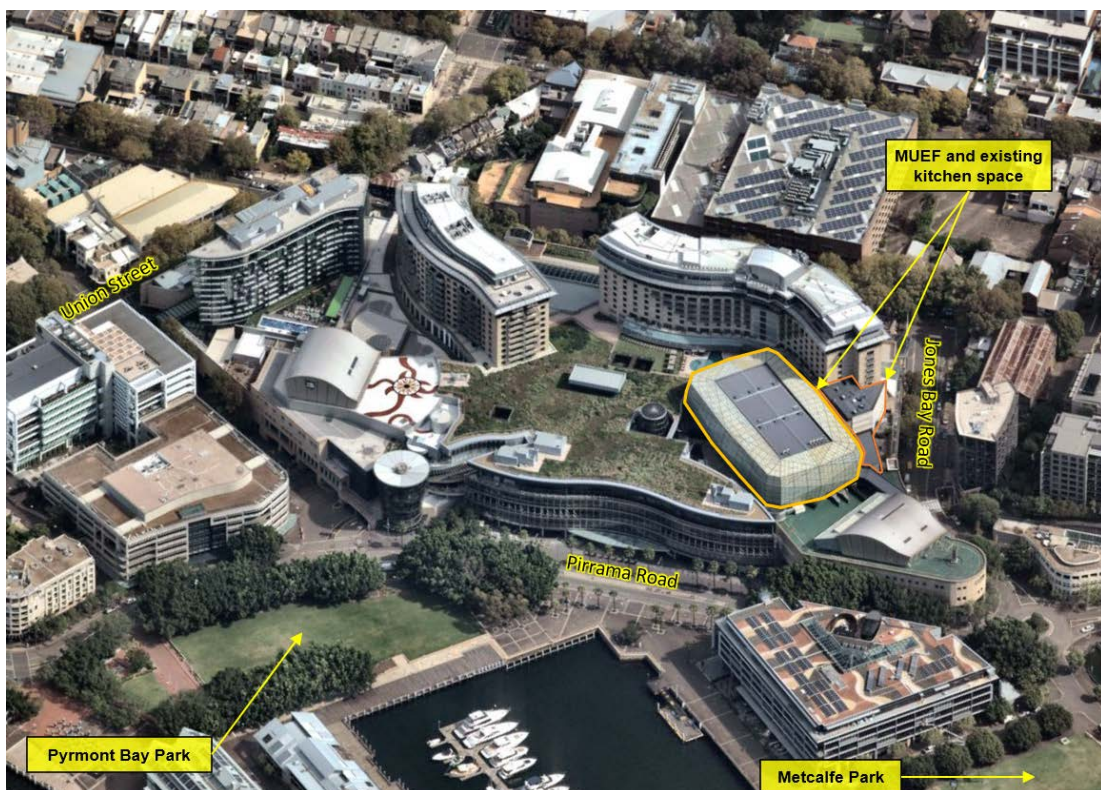


Figure 2 | Aerial view of the site looking from the south-west (Source: Nearmap)

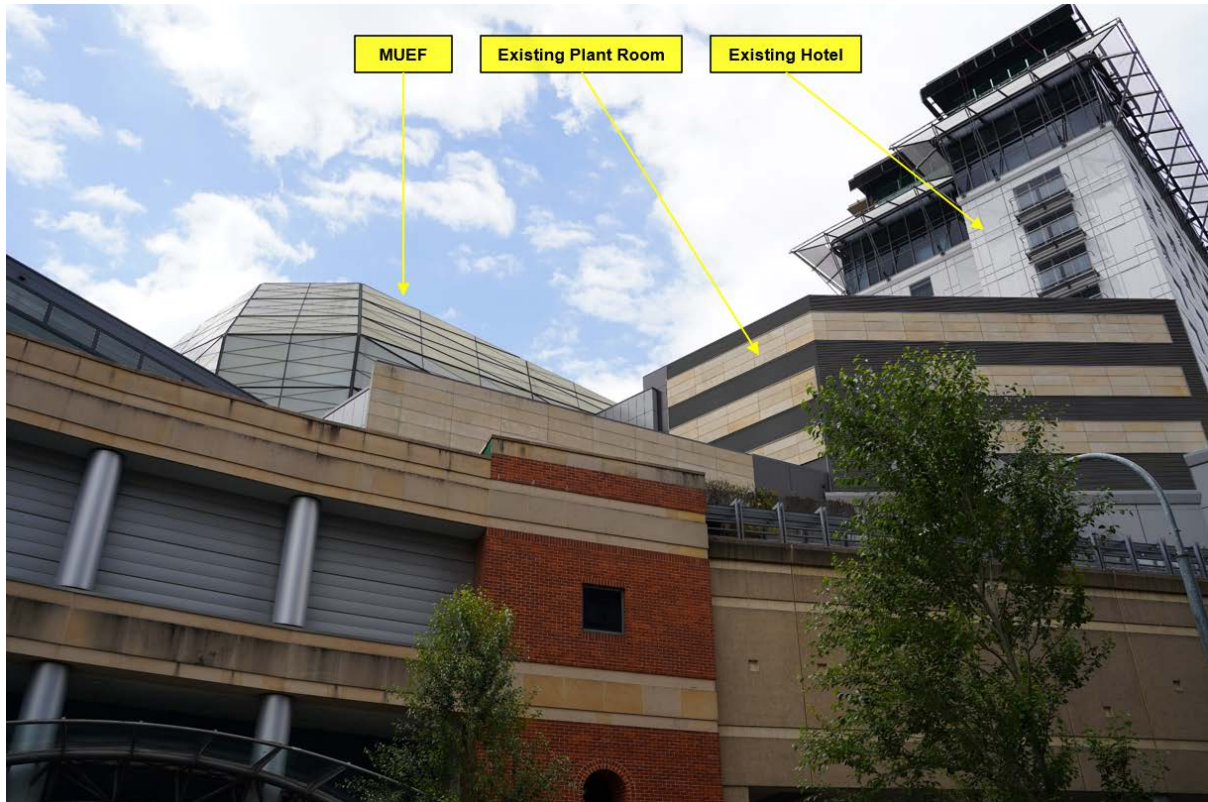


Figure 3 | Existing view of the MUEF and existing plant room from Jones Bay Road (Source: DPE)

1.3 Approval History

1.3.1 On 9 December 1994, the then Minister for Planning approved a development application (DA 33/94) for a permanent casino and entertainment complex, including a hotel, serviced apartments, theatres, restaurants, bars, car parking and associated facilities.

1.3.2 On 27 January 2009, the then Minister for Planning approved a Part 3A major project application (MP08_0098) for alterations and additions to the Star City Casino and Entertainment Complex and The Darling Hotel Development which consisted of:

- the construction of a 10-storey hotel above a 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
- works to the exterior of the existing Casino tower buildings
- expansion to the existing ballroom approved and pre-function area.

1.3.3 The ballroom expansion originally approved by MP08_0098 was not progressed.

1.3.4 MP08_0098 has been modified 14 times and one modification (MP08_0098 MOD 17) is currently under assessment. A summary of the modifications and the application currently under assessment is at **Appendix C**.

- 1.3.5 The existing MUEF and plaza/forecourt space was approved by the then Planning Assessment Commission as part of MP08_0098 MOD 7 to replace the ballroom expansion approved under the original Project Approval. The existing MUEF operates as 'The Star Event Centre' and is used for a range of events, conferences and concerts.
- 1.3.6 The façade of the MUEF structure was modified as part of MP08_0098 MOD 10 to replace a stainless steel finish with the current starfire glass.
- 1.3.7 The MUEF plaza/forecourt space approved in MOD 7 was replaced by an additional floor and green roof along the Pirrama Road frontage as part of MP08_0098 MOD 14 (**Figure 2**).

2 Proposed Modification

2.1.1 The amended modification application seeks approval to:

- convert the existing 4,000 standing capacity MUEF into a two-theatre complex with:
 - a 1,550 patron Broadway-style theatre and
 - a 1,000 patron comedy and live entertainment theatre (**Figure 4**)
- construct a 10 m high extension on top of the northern end of the MUEF for a new fly-tower and rigging loft up to RL 50.35 m to support theatre sets
- construct a new loft space for the comedy and live entertainment theatre to support props and backdrops
- construct a three-storey extension for new dressing room space and supporting plant and equipment areas fronting Jones Bay Road (**Figure 5**)
- convert existing kitchen space into additional dressing rooms and support space to serve both venues and refurbish internal foyer and pre-event spaces (**Figure 6**)
- increase the total gross floor area across the site by 931 m² (from 139,998 m² to 140,929 m²).

2.1.2 The Applicant has advised that the need for the proposal is driven by the high demand for theatre venues which can host Broadway and West End Style productions in Sydney. The Applicant notes the proposed fly tower above the stage of the 1,550 patron Broadway-style theatre will enable:

- props and sets to be changed seamlessly out of view of the audience throughout a show
- the storage of multiple sets and rigging items for a show
- provide a working space and access at the top of the space so staff can install and manage props and equipment on a rigging and counterweight system (known as a 'grid') (**Figure 4**).

2.1.3 The Applicant further notes the proposed 1,000 patron comedy and live entertainment theatre aims to complement theatre productions and allow the venue to host a range of events including live music, comedy, smaller plays and other theatrical events. The new loft space will enable the use of props and backdrops.

2.1.4 Construction is anticipated to take 24 months, including 6 months for site preparation and demolition, 7 months for structural works and 12 months for internal fit-out and finishes.

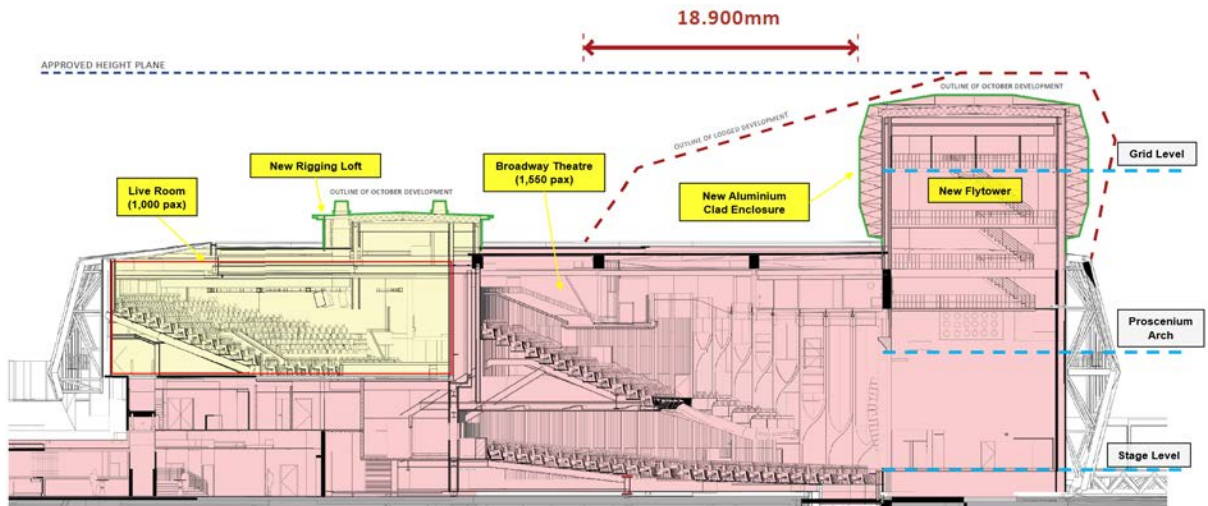


Figure 4 | Section of originally lodged (red dashed outline) and amended proposal (Source: RtS)

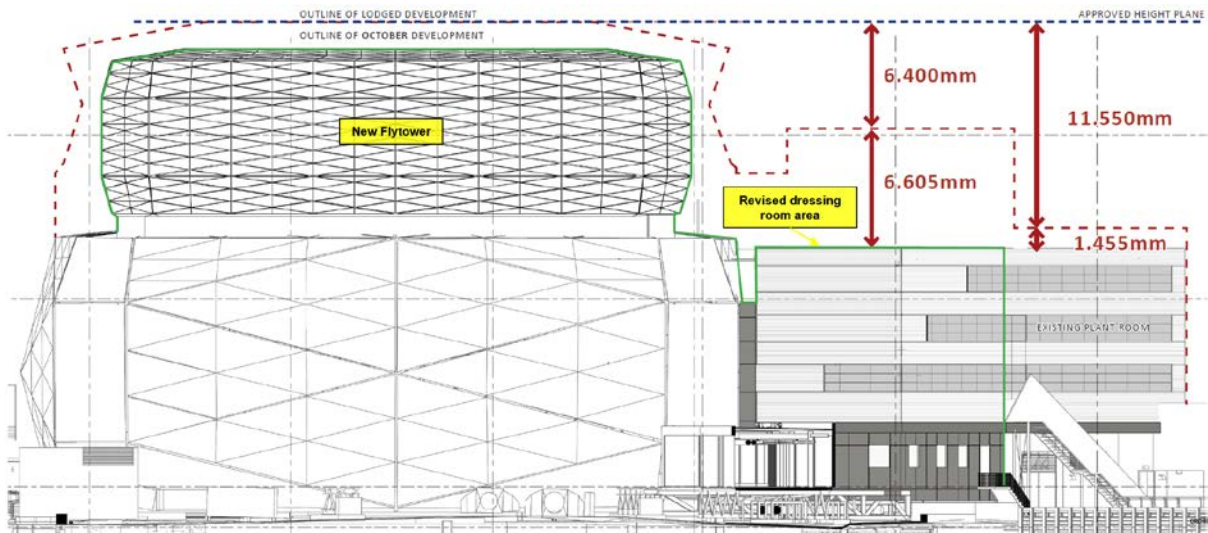


Figure 5 | North elevation of initially lodged (dashed outline) and amended proposal (Source: RtS)

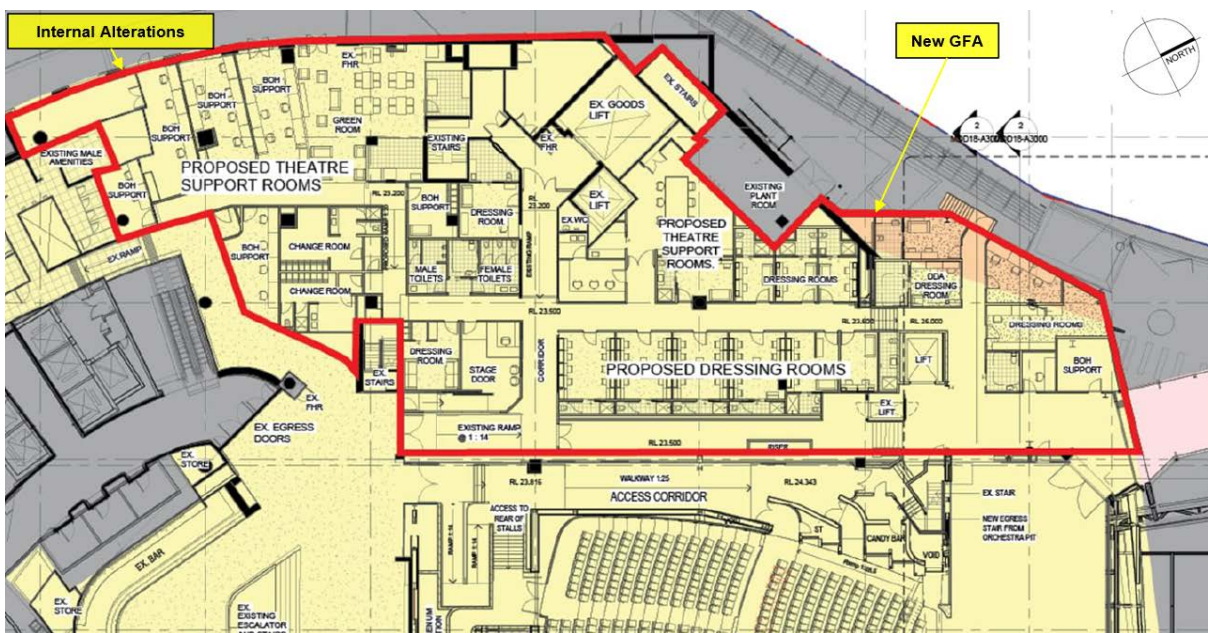


Figure 6 | Proposed internal conversions for dressing room and support space (Source: RTS)

3 Strategic Context

3.1 Pyrmont Peninsula Place Strategy

- 3.1.1 The Pyrmont Peninsula Place Strategy (PPPS) was finalised in December 2020 and provides a 20-year plan for future growth in the Pyrmont peninsula, with up to 23,000 more jobs and up to 4,000 new homes. The Star site is identified in the PPPS as a site capable of change.
- 3.1.2 The strategy identifies five “Big Moves” including:
1. a world-class harbour foreshore walk
 2. a vibrant 24-hour cultural and entertainment destination
 3. connections to the new Pyrmont Metro station
 4. a low-carbon, high-performance precinct
 5. better public spaces.
- 3.1.3 The Department is satisfied the proposal is consistent with the PPPS as it will support the objective to create a vibrant 24-hour cultural and entertainment destination.

Pyrmont Peninsula sub-precinct master plan

- 3.1.4 On 29 July 2022, *State Environmental Planning Policy Amendment (Pyrmont Peninsula) 2022* was made which amended the Sydney LEP and the planning controls for The Star site.
- 3.1.5 The amendment modified the planning controls on the Star site as follows:
- increased the permitted height at the MUEF from 28 m to RL 51.8 m for the purpose of entertainment facilities only
 - amended the floor space ratio (FSR) for The Star site from 3.5:1 and 3:1 (associated with the light rail alignment) to 4.22:1 across the site
 - requires the Pyrmont Peninsula Urban Design Report and design guidelines to be considered
 - facilitates the future delivery of a RL 110 m hotel on the northern corner of The Star site.
- 3.1.6 The Department is satisfied that the proposal is consistent with the height and FSR controls and has considered the Pyrmont Urban Design Report and Design Guidelines for The Star, which are referenced in the Sydney LEP at **Appendix B**.

3.2 Sustainable Sydney 2030-50

- 3.2.1 Sustainable Sydney 2030-50 is Council's Community Strategic Plan that aims to deliver a more sustainable, equitable and resilient Sydney through ten directions covering governance, environmental performance, place making, design, transport, equity, culture and innovation.

3.2.2 The Department considers the proposal is consistent with Directions 4 (design), 5 (connectivity and transport) and 8 (culture) of Sustainable Sydney 2030-50 as the site is well connected by public transport, will re-use a significant portion of the existing MUEF for new cultural and entertainment space and provide new built form consistent with the architectural expression of that part of The Star site.

4 Statutory context

4.1 Scope of modifications

4.1.1 The Department has reviewed the scope of the modification application and considers that the application can be characterised as a modification as it is substantially the same as the originally approved development as it existed when it was transitioned to SSD. In particular it:

- would not significantly increase the environmental impacts of the project as approved
- would not introduce any new uses into the site
- would not involve any disturbance any additional area outside the site.

4.1.2 Therefore, 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 Permissibility

4.2.1 The site is zoned B3 Commercial Core under the Sydney LEP. Entertainment facilities are permissible with consent in the B3 zone.

4.2.2 The proposal seeks to create two new performance spaces on-site. As discussed in **Section 3**, the recent amendments to the LEP controls for The Star site allow additional height within 'Area A' only to be used for an entertainment facility. The Sydney LEP defines an entertainment facility as:

***entertainment facility** means a theatre, cinema, music hall, concert hall, dance hall and the like, but does not include a pub or registered club.*

4.2.3 The Department considers the proposed additions and alterations (including the additional dressing room space) can be characterised as an entertainment facility and can therefore utilise the increased height of buildings provision under the Sydney LEP.

4.3 Consent authority

4.3.1 The Independent Planning Commission (the Commission) is the consent authority for the purposes of section 4.55(2) of the EP&A Act, because a reportable political donation was made.

4.4 Mandatory matters for consideration

4.4.1 The following are relevant mandatory matters for consideration:

- Section 4.15(1A) of the EP&A Act, including any environmental planning instruments or proposed instruments
- EP&A regulation
- likely impacts of the modification application

- suitability of the site
- any submissions
- the public interest
- the reasons for granting approval for the original application.

4.4.2 The Department has considered all of these matters in its assessment of the proposal. The Department has also considered the relevant matters in **Section 5** and **Appendix B**.

4.5 Part 3A transition to State significant development

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

4.5.2 Following amendments to the EP&A Act and the commencement of the associated EP&A (ST&OP) Regulation on 1 March 2018, the power to modify Part 3A project approvals under former section 75W is no longer available for modifications submitted after 1 March 2018. To modify a transitional Part 3A project approval, the Minister for Planning can declare the development to be SSD by order under clause 6 of Schedule 2 of the EP&A (ST&OP) Regulation. If a declaration is made, the project approval becomes a development consent which can be modified under Part 4 of the EP&A Act if it meets the relevant criteria.

4.5.3 On 15 January 2020, the Director, Key Sites Assessments (as delegate of the Minister), made an order under clause 6 of Schedule 2 to the EP&A (ST&OP) Regulation declaring the development the subject of project approval to be SSD. The order was published in the NSW Government Gazette on 24 January 2020 and took effect from that date.

4.5.4 The effect of this order is that the project approval is taken to be a development consent under Part 4 of the EP&A Act for the carrying out of the development from its scope as it existed from its transition from Part 3A to SSD.

5 Engagement

5.1 Department's engagement

- 5.1.1 The Department exhibited the modification application from 12 May 2022 to 25 May 2022 (14 days) on the Department's website. The Department notified surrounding landowners and previous submitters on the original project.
- 5.1.2 The Department also engaged with City of Sydney Council (Council), Transport for New South Wales (TfNSW) including Roads and Maritime Services (RMS), Heritage NSW, Fire and Rescue NSW (FRNSW), the Environment Protection Authority (EPA) and Ausgrid.
- 5.1.3 Department staff also met with the Applicant and residents on-site on 23 May 2022.

5.2 Summary of advice received from Government agencies

- 5.2.1 The Department received a submission from Council and advice from Government agencies including TfNSW, Heritage NSW, FRNSW and the EPA. No response from Ausgrid was received. A link to the Council submission and agency advice is provided in **Appendix A** and summarised in **Table 1**.

Table 1 | Summary of Council Submission and Agency Advice

Council / Agency	Comments
Council	<p>Council advised that is supported the proposed Broadway-style theatre and comedy and live entertainment venue, however it initially objected to the built form of the proposal including:</p> <ul style="list-style-type: none">• the height of the addition above the (then) 28 m height limit of the Sydney LEP and the proposed variation for the fly tower• the additional bulk the fly tower enclosure and the roof plant and dressing room additions and their associated view loss• design excellence concerns and that the additions and new façade read as a series of unrelated forms from the street. <p>Council also:</p> <ul style="list-style-type: none">• raised concern that the 'area of impact' images in visual impact assessment do not include the dressing room addition• requested details on stage design, and loading paths for 6 m high sets and loading/unloading scheduling with the Lyric Theatre• requested details of how the live comedy venue connects with backstage areas and consider its ability to cater for sets to provide a versatile space

Council / Agency	Comments
	<ul style="list-style-type: none"> requested design changes to reduce privacy impacts between dressing room areas and nearby apartments noted the architectural plans do not show the Sydney LEP height controls as currently mapped requested all additional proposed bulk should be shown in the visual impact assessment recommended conditions around acoustic management.
TfNSW	TfNSW did not object and advised the proposal is unlikely to impact the surrounding classified road network.
Heritage NSW	Heritage NSW did not object to the proposal and advised the works are not within the curtilage of any State Heritage Register item and no historical archaeological sites have been identified.
FRNSW	FRNSW did not object and recommended: <ul style="list-style-type: none"> an Emergency Response Plan (ERP) be prepared in accordance with Hazardous Industry Planning Advisory Paper (HIPAP) No. 1 an Emergency Services Information Package be developed in accordance with relevant FRNSW guidelines.
EPA	EPA did not object and noted the proposal is not a scheduled activity under the <i>Protection of the Environment and Operations Act 1997</i> .

5.3 Summary of submissions

- 5.3.1 During the exhibition period, the Department received nine submissions. Of the submissions received, two were from special interest groups (Ultimo Village Voice and Pyrmont Action Group) and seven were from the members of the community.
- 5.3.2 One public submission was in support of the proposal, three public submissions objected to the proposal and five public submissions provided comments.
- 5.3.3 The majority (89 %) of community members who made a submission live within 1 km from the proposal, with one (11 %) living within 5 km from the proposal.
- 5.3.4 A summary of the submissions is provided in **Table 2** and a link to the full submissions is provided in **Appendix A**.

Table 2 | Summary of issues raised in public and interest group submissions

Issue / Comment	% of submissions	Comments
Noise	89	<ul style="list-style-type: none"> Concern regarding additional noise impacts

		<ul style="list-style-type: none"> • Requests new noise studies be prepared to include additional nearby residential properties • Recommends the design be amended to include noise mitigating materials for new structures and acoustic screens around mechanical plant • Requests the terrace fronting Jones Bay Road be restricted to 7 AM to 10 PM and not permit amplified music or announcements.
Traffic and transport	56	<ul style="list-style-type: none"> • Increased crowding on public transport • Construction traffic impacts on nearby roads and porte cochere/taxi ranks • Request that the Jones Bay Road taxi rank be relocated.
Amenity (light and privacy)	56	<ul style="list-style-type: none"> • Support for the additional theatre and performance space • Considers no additional illuminated signage or façade lighting be permitted during construction or operation.
Construction impacts	44	<ul style="list-style-type: none"> • Vibration impacts on nearby heritage items and buildings.
Consultation	44	<ul style="list-style-type: none"> • Requests a permanent Community Consultation Committee be established.
Design, height, bulk and scale	33	<ul style="list-style-type: none"> • Concerns regarding bulk and scale of the additions and alterations • Excessive height of the fly tower • The site consists of many unrelated architectural structures and the proposal does not relate to existing development on the site • The proposal should consider Sustainable Sydney 2030-50.
Tree protection	33	<ul style="list-style-type: none"> • Requests tree protection measures be implemented during construction
View loss	22	<ul style="list-style-type: none"> • Visual impacts from the scale of the proposed rooftop structures at the 5th to 9th floors of the Watermark Apartments should be reduced.
Social impacts	22	<ul style="list-style-type: none"> • Smoking and anti-social behavior as part of the existing operation at The Star.

5.4 Response to submissions and Government agency advice

5.4.1 On 1 November 2022, the Applicant lodged a Response to Submissions (RtS) which amended the proposal and provided additional information in response to the issues raised during the exhibition period.

5.4.2 The RtS made the following design changes:

- amended the form of the fly tower to reduce its height from RL 51.8 m to RL 50.35 m and tighten its external enclosure to reduce its bulk and scale
 - amended the external design of plant room and dressing room space
 - amended the layout of the level 3 dressing rooms space
 - amendments to internal structure columns and pedestrian paths
 - amended the materials and finishes of the dressing room space in response to existing structures on-site along the sites Jones Bay Road frontage
 - deletion of the outdoor terrace from the proposal.
- 5.4.3 The Department placed the RtS on its website (**Appendix A**) and forwarded it to Council and TfNSW for comment. The Department also notified all submitters of the RtS.
- 5.4.4 Council reviewed the amended application and withdrew its previous objection. Council requested the materials used are suitable for a marine environment.
- 5.4.5 TfNSW provided additional advice in relation to works within the light rail corridor.
- 5.4.6 The Department received one additional public submission in response to the RtS which acknowledged the removal of the outdoor terrace, reduction in height, bulk and scale and changes to proposed windows to address privacy concerns. The submission also reiterated that the proposal should:
- use materials such as timber on its exterior to absorb sound
 - commit to protect existing trees along Jones Bay Road and Pirrama Road
 - commit to contacting nearby properties for pre and post dilapidation reporting to manage construction noise and vibration impacts
 - install noise monitoring equipment at residences at Jones Bay Road / Pyrmont Street
 - consider visual impacts from existing residential terraces that have views of the current MUEF.

6 Assessment

6.1.1 In assessing the modification application, the Department has considered:

- the amended modification application and its supporting documents
- the Environmental Assessment and conditions of approval for the original development (as modified as at MP08_0098 MOD 14, prior to the projects transition to SSD)
- all submissions received on the application
- relevant environmental planning instruments (EPI), policies and guidelines
- the requirements of the EP&A Act.

6.1.2 The Department considers the key issues associated with the proposal are height, bulk and scale, design excellence, view loss and noise. Other issues are assessed in **Section 6.6**.

6.2 Height, bulk and scale

6.2.1 The proposal seeks approval to construct a new 10 m tall fly tower at the northern end of the MUEF, new internal floor space for seating and circulation space and a partial addition on level three and new three-story extension (levels 4 to 7) for new dressing rooms and plant.

6.2.2 The dressing room and plant addition would be set back from the existing podium that fronts Jones Bay Road by 4.3 m (**Figure 7**). The alterations and additions will add 931 m² of new GFA.

6.2.3 Council initially objected to the height, bulk and scale of the proposal and raised concern with the bulk around the proposed fly tower and new plant and dressing room areas. Council considered the new plant area should be moved to reduce its bulk and associated visual impact.

6.2.4 Public submissions also raised height, bulk concerns with the proposal.

6.2.5 The Applicant amended the design of the proposal in response to the Council and public concerns by:

- reducing the height of the fly tower enclosure from RL 51.8 m to RL 50.35 m
- consolidating the proposed plant room with the dressing room expansion and reducing its height by 1.4m to align with the top of the existing plant room (**Figure 8**)
- amend the proposed façade to cover the fly tower extension only and maintain mid-city views between the fly tower and The Star Grand Hotel (**Figure 4**) and its bulk from residential properties (**Figure 15** to **Figure 21**) and the public domain (**Figure 9**).

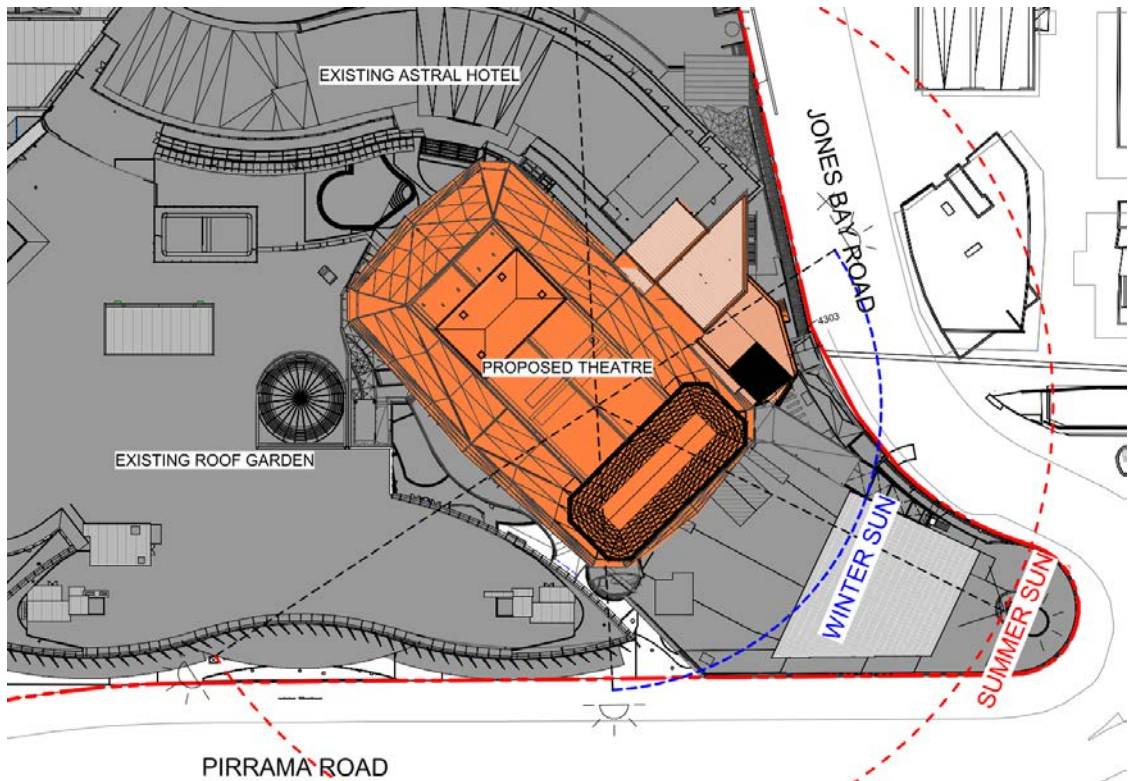


Figure 7 | Setback of dressing room and plant expansion (Source: RtS)

6.2.6 The Department has carefully considered the Applicant’s design response, Council advice and public submissions and concludes the bulk and scale of the revised proposal is acceptable as:

- the fly tower has a maximum height of RL 50.35 m which complies with the maximum LEP height limit of RL 51.8 m for an entertainment facility in ‘Area A’ of the site
- the increase of 931 m² of GFA is a minor increase in the context of the overall site and complies with the maximum FSR development standard of 4.22:1
- the reduced massing of the fly tower and plant room expansion mitigates view loss (covered in **Section 6.4**) without compromising the ability to provide the fly tower and other associated infrastructure necessary to support Broadway-style theatre productions
- the revised dressing room and plant areas would not result in adverse impacts as they are designed to provide a consistent podium setback and scale with the existing plant room along Jones Bay Road
- any additional shadows would fall within existing footprint of The Star and the proposal would not result in any additional off-site shadow impacts in the public domain or at private dwellings on the winter solstice.

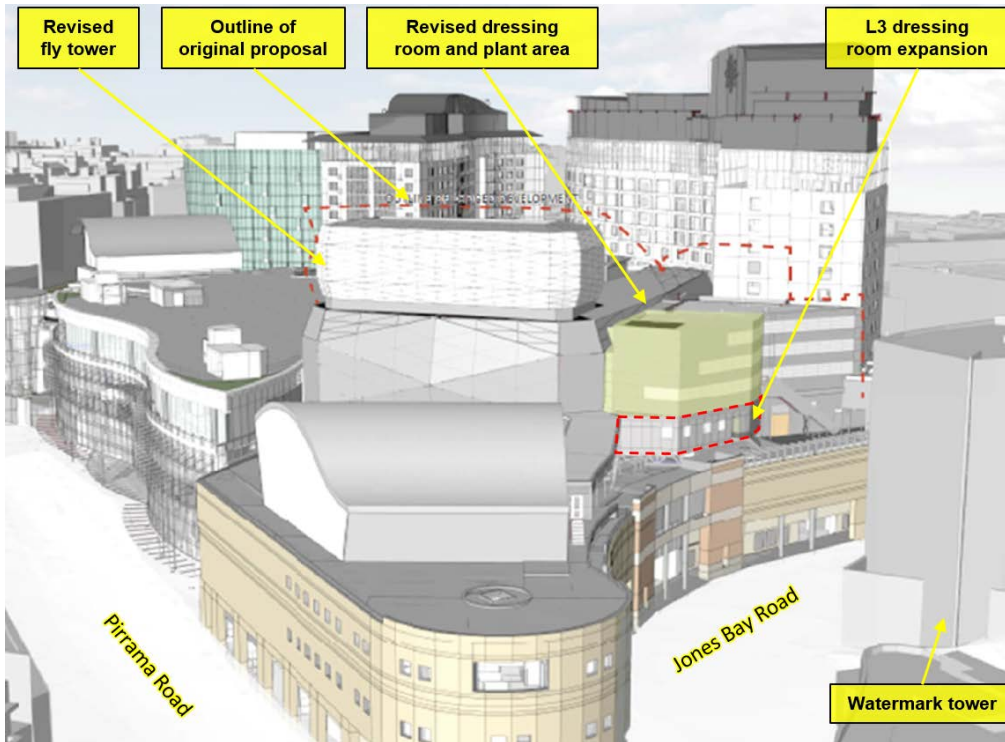


Figure 8 | Overview of design changes looking to the south-west (Source: RtS)

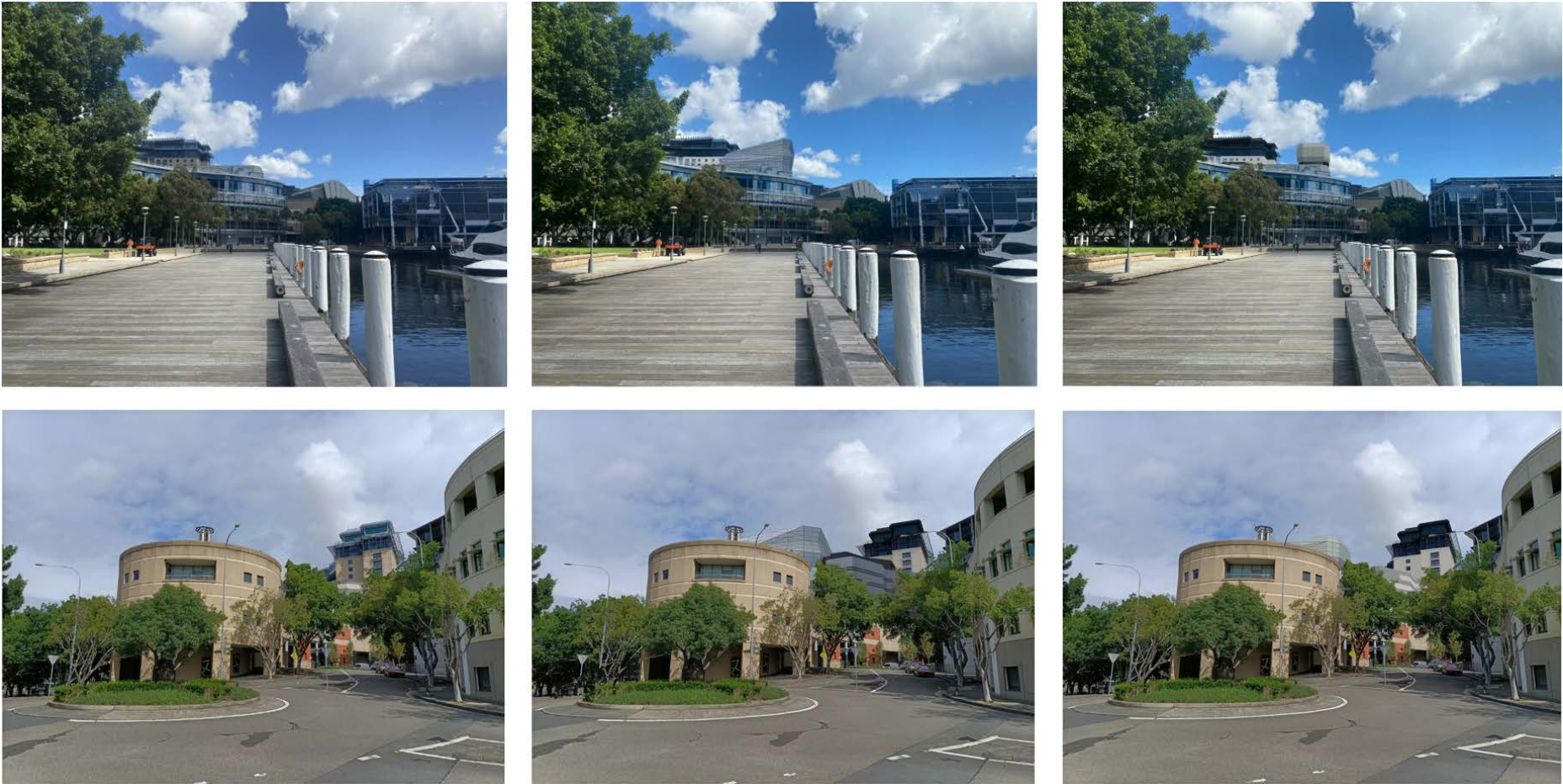


Figure 9 | Comparison of existing (left), lodged (middle) and amended (right) proposal from Pymont Park (top row) and Pirrama Road / Jones Bay Road (bottom row) (Source: RtS)

6.3 Design excellence

- 6.3.1 The existing MUEF is rectangular in form and clad in triangulated coloured glass profiles, to create a “gemstone” like appearance. The glass varies in tone across the building which creates visual interest as the sun hits the glass surface. The glass façade can be backlit at night.
- 6.3.2 The proposal sought to create a cohesive design, which initially included a significant extension to the existing envelope to accommodate the fly tower and give the impression the building was ‘folding out’ of the existing structure (**Figure 13**). The proposal also included new dark grey aluminum screening to the proposed dressing room extension (**Figure 11**).

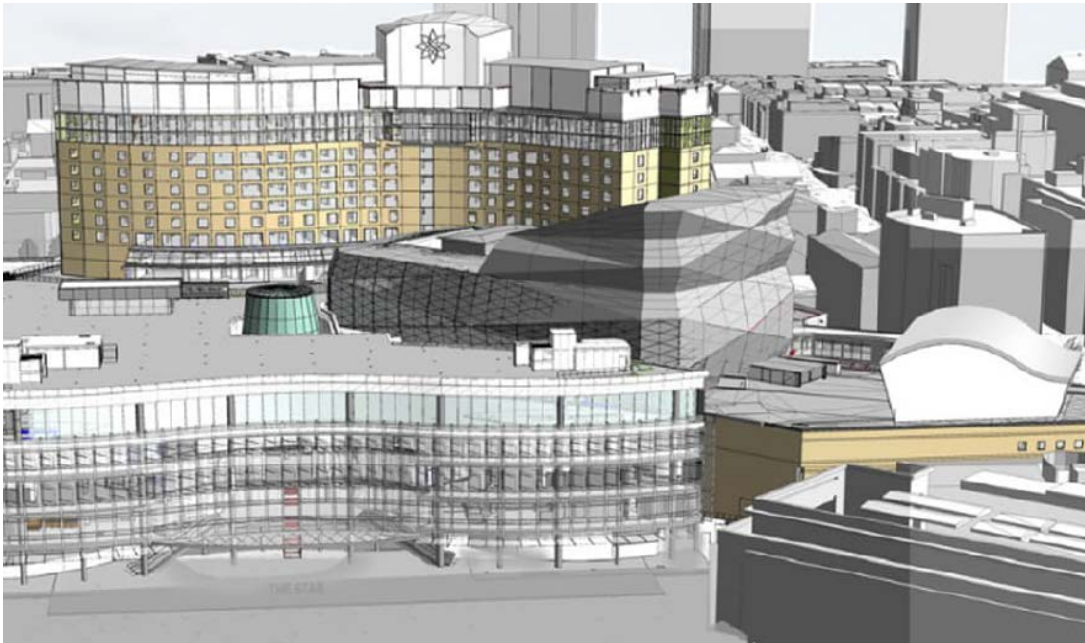


Figure 10 | Originally proposed design, which sought to continue the existing form of the MUEF to accommodate the fly tower (Source: Applicant’s design statement)

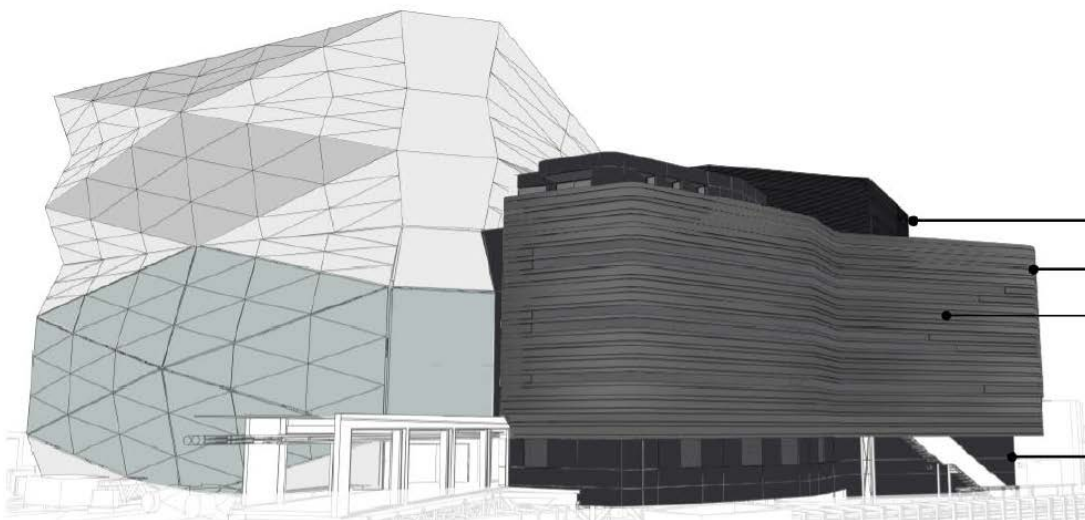


Figure 11 | Originally proposed fly tower and dressing room materiality clad in dark grey aluminium (Source: Applicant’s design statement)



Figure 12 | Amended fly tower, dressing room and plant design (Source: Applicant's RtS design statement)

- 6.3.3 Council initially considered that the proposal did not meet design excellence requirements in relation to improving the design quality of the Star and the streetscape. Council was concerned that the proposed additions read as a series of unrelated forms from the street.
- 6.3.4 In response to concerns raised by the Department, Council and in public submissions, the Applicant refined the design to replicate the existing form of the building over the footprint required for the fly tower only which substantially reduces the bulk and visual impact of the proposal (**Figure 12**). The fly tower will be clad in aluminum, which will be less reflective than the existing MUEF, will not be back lit and will include a shadow gap between it and the existing MUEF to ensure the addition is less prominent.
- 6.3.5 Furthermore, the Applicant has amended the plant and dressing room additions into one element and simplified the design to match the levels of sandstone and acoustic louvres of the existing plant room to tie in with the design and materiality of existing structures on the site (**Figure 12**).
- 6.3.6 The Department has carefully considered the Applicant's amended design and is satisfied the design and materiality of the additions are acceptable as:
- the amended proposal satisfies the design excellence requirements of Clause 6.21C of the Sydney LEP (**Appendix B**)
 - the fly tower achieves a suitable relationship with the existing MUEF while minimising visual, overshadowing and streetscape impacts to the greatest extent
 - the chamfered design of new aluminum cladding at the fly tower would be consistent with the glass finish of the existing MUEF with a lower reflectivity and no backlighting to ensure the addition is less prominent

- the dressing room and plant extension would use finishes to match the existing plant room and provide a consistent presentation to the streetscape
- the Applicant has confirmed that all materials will be able to withstand the marine environment, without risk of corrosion.

6.3.7 The Department recommends conditions in relation to materiality to ensure the cladding meets the BCA.

6.4 View loss

6.4.1 The proposed 10 m high fly tower will impact Sydney CBD and open sky views from residential apartments and balconies at nearby properties including those within the Watermark Tower (2 Jones Bay Road), Watermark Pavilion (24 Point Street) and Rockdale (88 John Street).

6.4.2 The Applicant provided a Visual Impact Assessment (VIA) and 3D montages of the proposal to examine the impacts on private views to Darling Harbour and the CBD and assess the view loss at the most affected residences and from the public domain (**Figure 13**).

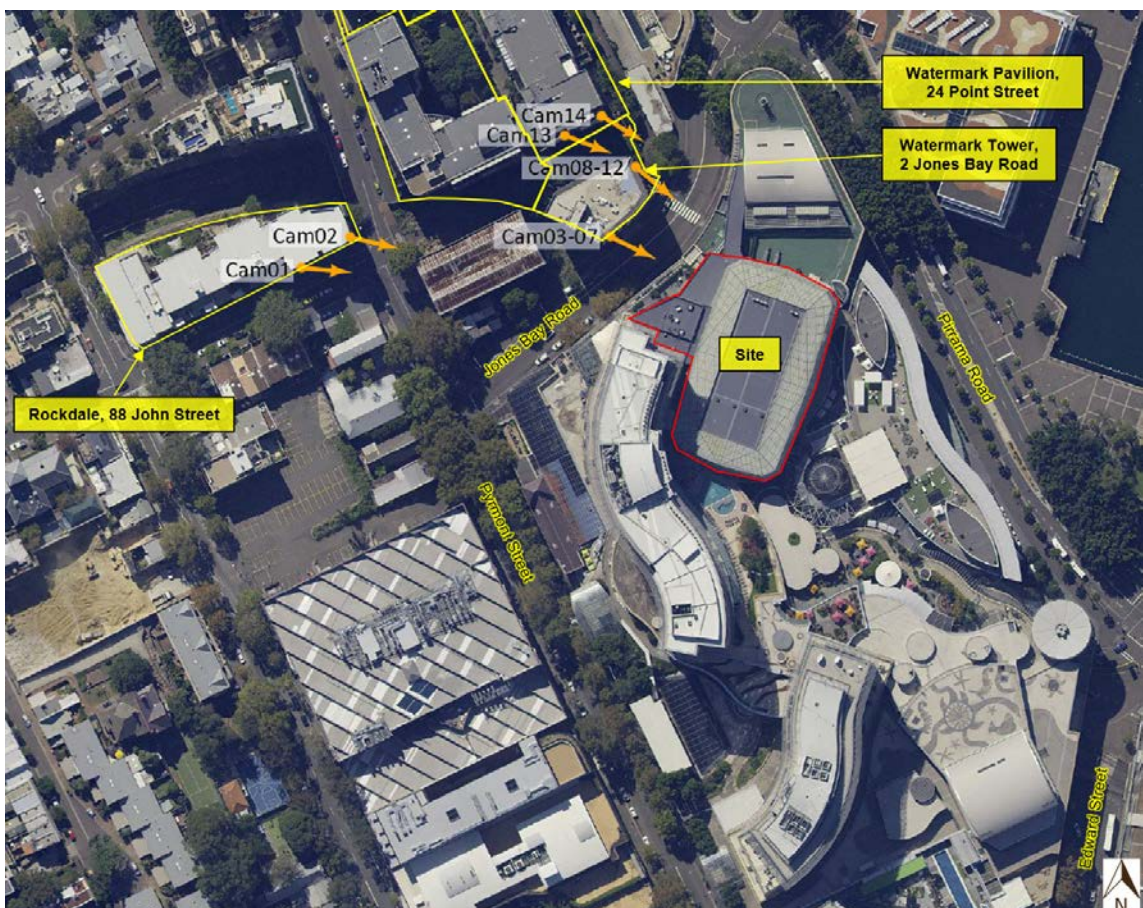


Figure 13 | Points considered in the VIA (Source: RtS)

6.4.3 The VIA indicates the most affected vantage points would be the south-east facing apartments within the Watermark Tower, with impacts to existing open sky and Sydney CBD skyline views ranging from minor (at four levels) to moderate (at one level).

6.4.4 Council raised concerns that the proposed fly tower will cause view loss to the Watermark Tower and Rockdale Tower (City West Housing). Public submissions also raised view loss concerns from these locations.

6.4.5 In response to these concerns, the Applicant amended the proposal to:

- simplify the façade around the fly tower to wrap the cladding around its structure and reduce its bulk
- consolidate the plant room and dressing room extension into one structure and align its roof with the existing kitchen and plant room (**Figure 14**)
- remove the horizontal aluminium clad screen wrapping around the dressing room extension and existing plant room to reduce the projection of new built form to Jones Bay Road.

6.4.6 The Applicant revised its VIA with the amended design and has included an outline of the original proposal in new montages for comparison, demonstrating it preserves views between the fly tower and The Star Grand Hotel (**Figure 15 to Figure 21**).

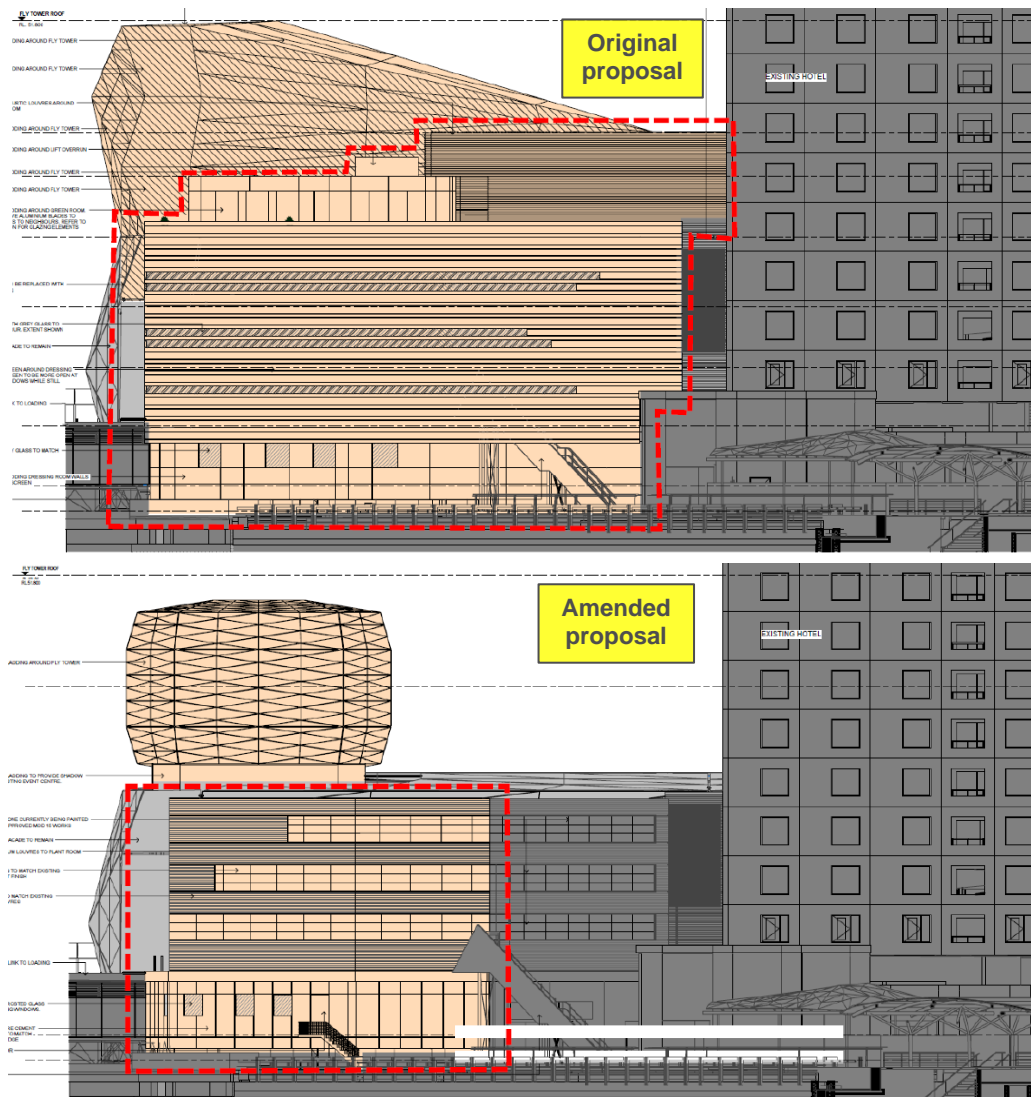


Figure 14 | Comparison of western elevation - original (top) and amended proposals (bottom) (Source: RtS)

6.4.7 The Department has carefully considered the VIA and public submissions and considered the view impacts of the proposed fly tower at the identified properties using the four-step assessment in accordance with the principles established by *Tenacity Consulting Vs Warringah [2004] NSWLEC 140*. The steps / principles adopted in the decision are:

1. Assess what views are affected and the qualitative value of those views.
2. Consider from what part of the property the views are obtained.
3. Assess the extent of the impact (Tenacity principles establish an impact spectrum including 'negligible', 'minor', 'moderate', 'severe' and 'devastating').
4. Assess the reasonableness of the proposal that is causing the impact.

Tenacity steps 1 to 3

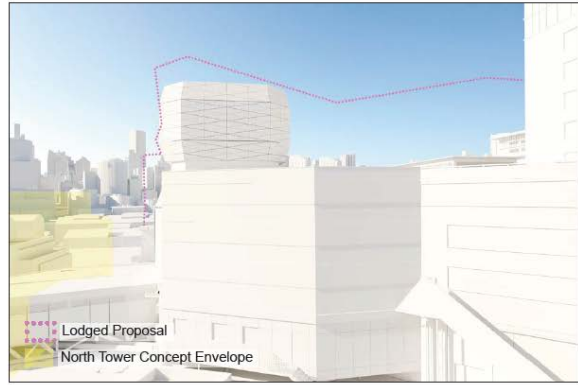
6.4.8 The Department has assessed the proposals visual impacts on residential apartments at the Watermark Tower, Watermark Pavilion and Rockdale towers and considers the impacts to:

- the Watermark Tower would be:
 - moderate to severe at south facing apartments on levels 8/9, including partial loss of views of the CBD skyline from balconies, living rooms and bedroom/living room windows (**Figure 15** and **Figure 16**)
 - minor up to Level 7 as existing views toward the CBD are already partially obscured by the existing MUEF and the proposal will only partially further obscure open sky views (**Figure 17** and **Figure 18**).
- the Watermark Pavilion would be:
 - moderate at apartments on levels 8 and 9 of the eastern most corner, including partial loss of mid-CBD and open sky views that currently extend above the MUEF (**Figure 19**).
 - negligible at apartments on level 8 and 9 on the second, western frontage as they are highly restricted by the structure of the Watermark Tower with negligible loss of sky views (**Figure 20**).
 - minor to negligible to level 7 and below are expected to be minor to negligible due to the Watermark Tower and existing structures at The Star.
- Rockdale towers (City West Housing) would be minor from south-eastern facing balconies on the top floors given the prominence of existing developments including The Star Grand Hotel and existing heritage warehouse on Pyrmont Street. The fly tower would block mid-city views of the CBD, including partial views of the MLC building, however the proposal will not impact on existing visibility of Centrepont Tower from these apartments (**Figure 21**). Views from apartments on lower levels currently have access to more limited views of the CBD due to existing development in the mid and foreground and this is likely to be unaffected by the proposal.

EXISTING



REVISED PROPOSAL



VIEW LOSS



CAMERA LOCATION

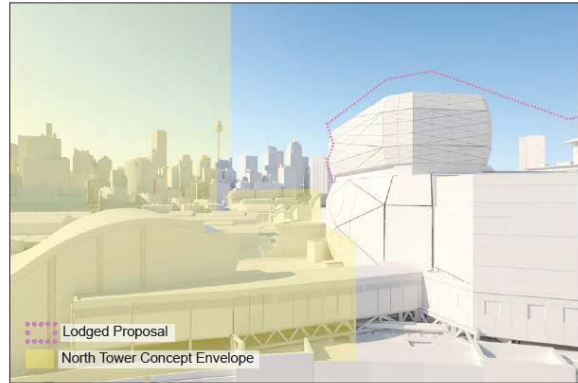


Figure 15 | Severe view loss impacts from L8/9, South of the Watermark Tower (Source: RtS)

EXISTING



REVISED PROPOSAL



VIEW LOSS



CAMERA LOCATION



Figure 16 | Moderate view loss impacts from L8/9, East of the Watermark Tower (Source: RtS)

EXISTING



REVISED PROPOSAL



VIEW LOSS



CAMERA LOCATION

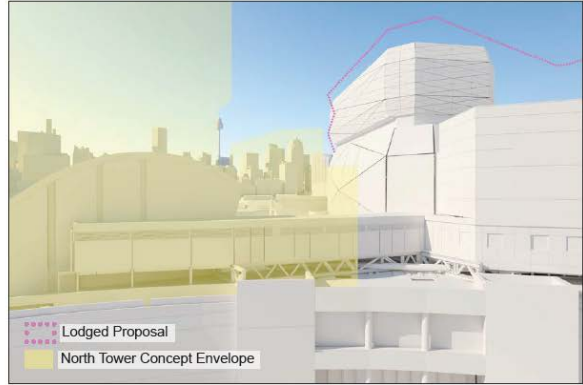


Figure 17 | Minor view loss impacts from L7, South of the Watermark Tower (Source: RtS)

EXISTING



REVISED PROPOSAL



VIEW LOSS



CAMERA LOCATION

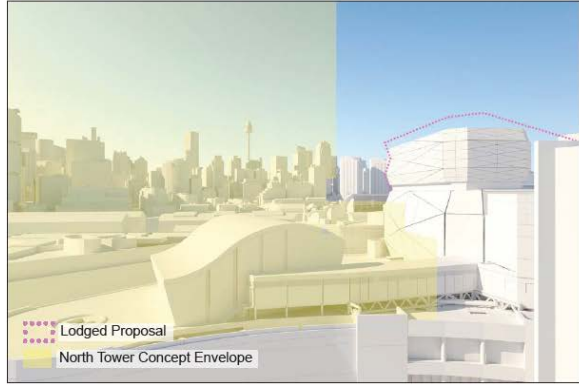


Figure 18 | Minor view loss impacts from L7, East of the Watermark Tower (Source: RtS)

EXISTING



REVISED PROPOSAL



VIEW LOSS



CAMERA LOCATION



Figure 19 | Moderate view loss impacts from L8/9, East of the Watermark Pavilion (Source: RtS)

EXISTING



REVISED PROPOSAL



VIEW LOSS



CAMERA LOCATION



Figure 20 | Negligible view loss impacts from L8/9, western block of the Watermark Pavilion (Source: RtS)



Figure 21 | Minor view impacts from L7, South-East corner, Rockdale towers (Source: RtS)

Reasonableness of the proposal (Tenacity step 4)

- 6.4.9 The fourth step of the Tenacity planning principle is to assess the reasonableness of the proposal that is causing the impact.
- 6.4.10 The proposal complies with the site-specific Sydney LEP height limit for entertainment facilities (**Appendix B**).
- 6.4.11 Even when a proposal complies with all relevant planning controls, the Tenacity planning principles require the question be asked whether a more skillful design could provide the Applicant with the same development potential and amenity and reduce the impact on the views from neighbours.
- 6.4.12 The Department is satisfied that the Applicant has carefully considered the design and its amended proposal significantly reduces the view loss impacts (compared to the original proposal) by limiting the additional building height and bulk and wrapping around the proposed fly tower (**Figure 14**).
- 6.4.13 The Department agrees with the Applicant that there is limited scope for any other alternative design without compromising the ability to provide a fly tower above the stage to accommodate Broadway-style productions.
- 6.4.14 The Department is satisfied that the amended proposal balances the preservation of views while meeting the functional requirements of the site to deliver two modern theatres, including

a fly tower and associated infrastructure to support Broadway-style productions within a key tourist and entertainment precinct within Sydney.

6.4.15 The Department therefore concludes the view impacts of the proposal are acceptable for the following reasons:

- the proposal is consistent with the Pyrmont Place Strategy as it would not block views to the water from any of the affected apartments
- the height of the fly tower complies with the maximum LEP height control
- the amended proposal strives to minimise view loss by limiting the bulk of the fly tower to the smallest extent possible while meeting the functional requirements of the facility to accommodate a Broadway-style theatre.

Public view impacts

6.4.16 Council and submissions were concerned with the visual impact of the proposal when viewed from surrounding streets and nearby public spaces.

6.4.17 The Applicant's VIA includes montages of the amended proposal from the boardwalk of Pyrmont Bay Park and the intersection of Jones Bay Road and Pirrama Road (**Figure 9**).

6.4.18 Following the RtS, Council raised no further concerns with impacts from the public domain.

6.4.19 The Department considers the visual impact of the proposal from the public domain, including Pyrmont Foreshore is acceptable as:

- the fly tower would present as a stepped transition from The Star Grand Hotel tower when seen from Pyrmont Bay Park and Cockle Bay further to the east
- the fly tower would not be readily visible from the street along Jones Bay Road or Pirrama Road due to its setback from the podium
- it would not obscure any existing significant views or the Martin Place View Corridor under the Pyrmont Place Urban Design Report
- the amended dressing room space would be sympathetic to existing built form on the site along the Jones Bay Road streetscape.

View impacts from terraces

6.4.20 Public submissions and the single submission received on the RtS raised concerns about view impacts from existing terraces on Pyrmont Street.

6.4.21 The Department notes the views from east facing rear and dormer windows of the nearby terraces on Pyrmont Street are limited to open sky views and do not contain any iconic views.

6.4.22 The Department considers views from these windows toward the proposal are restricted due to existing street trees, the Watermark Tower and the setback of the fly tower and dressing room additions from The Star podium.

6.4.23 On this basis, the Department considers the visual impact from these properties are acceptable as they are limited to partial sky views.

6.5 Noise impact

6.5.1 The Star operates 24 hours/7 days and the consent has several existing conditions to manage operational and mechanical plant noise, which are discussed below.

Operational Noise

6.5.2 The proposed new theatres would potentially operate up to 24 hours, 7 days, however typical hours would range from 8 AM to 11:30 PM but may vary up to 24-hour operations for short periods, depending on the performance schedule. Performances would generally start and be open to the public from 1 PM and 7 PM until 10:30 PM, depending on the day and performance schedule.

6.5.3 The Applicant has advised that both performance spaces are designed to be acoustically separated to maintain the quality of performances.

6.5.4 Potential operational noise sources include the use of new amplified sound systems and noise from patrons in foyer and function areas.

6.5.5 Condition F5 requires cumulative noise at The Star to be managed so:

- there is no “offensive noise” (as defined under the POEO Act) at the boundary of the nearest receivers at any time
- the top 10% (L10) of noise emissions is no higher than background (L90) + 5dB(A) between 7 AM and 12 midnight
- the top 10% (L10) of noise emissions is no higher than the background (L90) noise level between 12 midnight and 7 AM
- be inaudible in any habitable room in any residential property between 12 midnight and 7 AM.

6.5.6 Public submissions raised concern with noise impacts from the use of the new theatres, questioned the location of background noise measurements and requested the use sound absorbing materials and cladding such as composite laminate timber to reduce the noise reflections from the surrounding environment and the proposal.

6.5.7 Public submissions also raised concerns about noise impacts from the previously proposed outdoor terrace fronting Jones Bay Road. This part of the proposal has been removed by the Applicant as part of the RtS.

6.5.8 The Applicant provided a noise impact assessment (NIA) in accordance with the Noise Policy for Industry, NSW Liquor and Gaming requirements and the noise management framework established in Condition F5 of the consent. The NIA considers the standalone and cumulative acoustic impacts from the use of the proposed venues and attending patrons at nearby residential and commercial receivers (**Figure 22**).

6.5.9 The NIA included noise surveys to determine the background noise levels at the following locations:

- L1 – the lower rooftop of the Sports bar/Casino gaming floor. This location was chosen as permission was not granted by the owners corporation or strata manager of

Watermark Tower, so this location directly opposite Watermark Tower, is representative of the background noise environment at the Watermark Tower residences

- L2 – the link bridge corridor between the Event Centre and the adjacent hotel. This location represents the background noise environment at the nearest commercial receiver.

6.5.10 The NIA concludes the proposal can meet the cumulative noise management requirements when both venues are operating at the same time as a worst-case scenario (**Table 3**).

6.5.11 The NIA also concludes the proposal can comply with relevant sleep disturbance criteria from noise emissions from patrons and sound systems at the new venues.



Figure 22 | Nearby noise sensitive receivers (Source: RtS)

Table 3 | Predicted cumulative noise levels (New Theatre and Live Room) at nearby receivers

Location	Description	Overall dB(A)L10	Octave band center frequency – hz (dBZ)									Compliance?
			31.5	63	125	250	500	1k	2k	4k	8k	
Residential - Watermark Apartments	Predicted Cumulative Level	46	64	61	54	47	44	40	35	30	22	Yes
	Project Noise Level	59	65	66	60	59	55	55	51	43	36	-
Commercial - Hotel	Predicted Cumulative Level	36	58	55	46	36	31	27	21	15	10	Yes (except at 31.5hz)
	Project Noise Level	51.5	57	58	52	51	47	47	43	35	28	-

Commercial – Gaming space	Predicted Cumulative Level	47	67	68	56	50	41	33	36	33	22	Yes (except at 31.5hz and 63 hz)
	Project Noise Level	53	62	61	58.5	54	49.5	48	44	39.5	32	-

6.5.12 The Department has carefully reviewed the NIA and concerns raised in public submissions and is satisfied the design and operation of the new theatre spaces would not result in adverse acoustic impacts at nearby residential and commercial receivers as:

- the cumulative noise impacts from the operation of the two theatres in a worst-case scenario would be below the project noise level at the nearest residential properties
- the impacts at other residential properties, including the terraces on Pymont Street will be less than the assessed worst-case scenario at the Watermark Apartments
- the proposal is unlikely to cause noise reflection or require the use of specific sound absorbing materials as the raised and set back location of the fly tower relative to the street level of Jones Bay Road will prevent noise from being reflected towards residential uses
- minor exceedance of 1dB(A) at the hotel receiver in the 31.5 hz frequency is unlikely to be perceptible to hotel guests
- the exceedances with the 31.5 hz (5dB(A) over) and 63 hz (7 dB(A) over) octave bands at the main gaming floor of The Star Grand Hotel are unlikely to impact the amenity for patrons as the predicted noise levels are no different from existing noise levels on the main gaming floor.

6.5.13 The Department recommends conditions to:

- require an updated operational noise management plan for the new venues under Condition B5(3)
- require the recommendations of the NIA be incorporated into the detailed design and operation of the new venues in Condition B6(2).

Mechanical plant

6.5.14 Condition F4 requires all mechanical plant noise to not generate “offensive noise” and be no louder than background (L90, 15 minute) + 5dB(A) noise level.

6.5.15 The Applicant’s NIA notes that final plant selections and locations have not been made however, it provides recommendations in order for new mechanical plant to meet the noise criteria in accordance with Condition F4, including the use of acoustic louvers/jackets to ensure noise emissions are effectively controlled.

6.5.16 The Department has reviewed the Applicant’s NIA and is satisfied that mechanical plant is capable of being acoustically designed and treated in the detailed design phase to comply with existing conditions.

6.5.17 The Department recommends amendments to existing conditions B5, B6 and E1(A) to require detailed drawings and documents confirming the construction, fit out and mechanical plant

design meets Condition F4 and certification these measures have been installed prior to the issue of an occupation certificate for the MUEF.

6.6 Other issues

6.6.1 The Department's assessment of other impacts associated with the proposal is in **Table 4**.

Table 4 | Assessment of other issues

Issue	Findings	Recommendations
<p>Privacy impacts</p>	<p>Council and public submissions raised privacy concerns with the dressing room extension at the Watermark Tower.</p> <p>In response, the Applicant amended the layout of the dressing room space to remove the linear windows and outdoor terrace from the proposal, reduce the number of new windows to the level 3 dressing room expansion only and confirm that all new windows to dressing room areas would be fitted with frosted glass.</p> <p>On this basis, the Department is satisfied that the proposal will not result in privacy impacts. A condition is recommended to ensure these windows use frosted glass.</p>	<p>Insert new Condition A12 to ensure new windows for the dressing room extension are frosted.</p>
<p>Traffic, access and public transport</p>	<p>The site has a 3,000 space basement car park. No changes to off-street parking are proposed. Existing conditions require several traffic plans, including loading dock management (B10A), private bus management (B10B) and porte cochere management (B10C).</p> <p>Submissions raised concern with traffic impacts, potential for overcrowding on public transport and requested the taxi rank on Jones Bay Road be relocated. Council queried how backstage areas would be accessed for props and equipment.</p> <p>TfNSW advised the proposal is unlikely to impact the surrounding classified road network.</p> <p>The Applicant provided a traffic statement which considers traffic volumes from the proposal are expected to be similar or less than those currently generated at the site due to the reduced total patron numbers of both venues.</p> <p>The development would rely on existing access points, being:</p> <ul style="list-style-type: none"> • the event centre loading dock, lift and set down area accessed from a one-way service link from Edward Street exiting onto Pirrama Road. • the main loading dock and smaller lift on Jones Bay Road for food, beverages, garbage and smaller live room sets/props. 	<p>Amend Condition B10A to require a revised loading dock management plan for the MUEF prior to the issue of a construction certificate for MOD 18.</p>

Loading dock operations are predicted to be from 7 AM to 6:30 PM Monday to Friday, 7 AM to 1:30 PM on Saturdays and 7 AM to 11 AM on Sundays.

The Applicant has also advised that the Jones Bay Road taxi rank would continue to operate when the work zone is not being used and any on-street parking changes would be subject to separate consideration by Council.

The Department is satisfied that the proposal is unlikely to result in additional traffic impacts as:

- the maximum capacity of the two theatres is 450 less than the 3,000 seated capacity of the existing MUEF
- the proposal can use the site's existing access points, internal access links and loading docks which will minimise impacts on the surrounding areas
- the site is well connected by public transport including the inner west light rail, bus service 389, Pyrmont Bay Wharf and car parking and overcrowding on these services is considered unlikely
- the Applicant has confirmed internal alterations will provide clear paths from lift areas to move sets and equipment to the new venues.

The Department recommends an amendment to Condition B10A to require an updated loading dock management plan prior to the issue of a construction certificate for MOD 18 works.

Fire Safety

The proposal would have a total patron capacity of 2,550 people across the Broadway and live room venue compared to the 4,000 person standing and 3,000 person seated capacities of the existing MUEF.

The proposal includes a fire engineering assessment which concludes the proposal will generally meet the deemed to satisfy provisions of the BCA. Some elements will require a performance solution as part of the detailed design phase.

The existing MUEF has an emergency response plan prepared in accordance with Condition B28 of the existing consent which addresses evacuation requirements for the MUEF.

The Applicant has advised a new Evacuation Plan will be prepared for the proposal to address the new internal layout and patron numbers.

FRNSW advised that a Fire Safety Study is not required for the proposal. FRNSW also recommended an Emergency

Amend **Condition B28** to require a new Evacuation Strategy to be prepared and details of the performance solutions have been endorsed by the certifying authority prior to the issue of a construction certificate.

Response Plan and an Emergency Services Information Package be prepared.

The Department has carefully reviewed FRNSWs advice and recommends Condition B28 be amended to require a new Evacuation Strategy.

Signage	<p>The Applicant has advised that it would install wayfinding signage to assist in navigation through the site to the two new theatres. This would be undertaken in accordance with Schedule 3 of the consent which allows minor works such as general and internal signage to be undertaken without consent.</p> <p>Public submissions requested that no illuminated signage or façade lighting be approved.</p> <p>In response to concerns raised the Applicant confirmed no additional signage is proposed in this modification application.</p> <p>The Department notes the application does not seek any changes to illuminated or non-illuminated signage or external lighting and that any changes or new signage would be subject to a separate application.</p>	No additional conditions required.
Social impacts	<p>Submissions raised smoking and anti-social behaviour concerns.</p> <p>The Applicant has advised it oversees all front and back of house areas at the theatre spaces. The Star also oversees cleaning and waste management at all front of house areas. The Applicant also advised that:</p> <ul style="list-style-type: none">• the venues will be frequently patrolled by staffed monitoring safety and cleanliness• when open to the public, staff will be present constantly controlling responsible service of alcohol and patron volume. <p>The Department notes the proposal relates to the MUEF only and does not seek to alter any aspects of The Star Casino including gaming or smoking areas. The proposal will have a positive social impact through the delivery of modern theatre space within an existing tourist and entertainment precinct. The proposal is unlikely to significantly contribute to negative social impacts given the measures in place by the Applicant and The Star. The Department is therefore satisfied that no additional conditions are required.</p>	No additional conditions required.
Construction noise	<p>Public submissions raised concern about construction noise.</p> <p>The proposal is 57 m away from locally heritage-listed residential properties on Pymont Street and 20 m from the</p>	Amend Condition B21 to require an update to the CNVMP for the

Watermark Tower. The Applicant seeks to undertake demolition and construction works within the approved construction hours set by Condition D11 which are:

- 7 AM to 5:30 PM Mondays to Fridays
- 8 AM to 3:00 PM on Saturdays
- 9 AM to 3:30 PM Mondays to Fridays for mechanical rock blasting
- no work on Sundays and public holidays
- heavy demolition: 9 AM to 4 PM Mondays to Saturdays.

proposal, including the NIA recommendations.

The Applicant's NIA includes an assessment of construction noise in accordance with the Interim Construction Noise Guide (ICNG) and the EPA's Road Noise Policy.

The NIA establishes a noise management level (NML) for the site of 65 dB(A) (background + 10 dB(A)) during daytime construction hours and notes that works can generally be managed within acceptable limits.

However, the NIA estimates that some construction works including concrete pumping, crane operations and demolition equipment are likely to exceed the NML and the 75 dB(A) highly noise affected noise level near sensitive receivers. Trucks are also expected to exceed the NML by up to 7dB at the Watermark Tower.

The NIA recommends mitigation measures including using noise curtains, respite periods for noisy works, enclosing work sites where possible, locating equipment away from receivers, using vehicle paths that minimise the need to reverse and notifying nearby properties via letter drops.

The Department has carefully considered the NIA, the duration and context of construction works and the concerns raised in public submissions. The Department considers construction impacts can be managed to an acceptable level as:

- existing and site-specific management plans would be updated to reflect the proposal and ensure appropriate mitigation measures and monitoring are implemented during construction
- noisy works would be limited to three-hour blocks with one hour respite periods in between
- noise from construction traffic would be temporary but can be managed through scheduling to occur outside of noise sensitive times (early morning and evening)
- a substantial amount of demolition and construction works would occur within existing buildings and semi-enclosed areas on-site, which will mitigate construction noise impacts to nearby residents

The Department recommends conditions to require the Applicant to prepare an updated Construction Noise and Vibration Management Plan (CNVMP) which includes the NIA recommendations, mitigation measures and notification for nearby sensitive receivers.

Construction traffic impacts	<p>Concerns were raised in public submissions about construction traffic impacts.</p> <p>The Applicant provided a project specific preliminary construction traffic management plan to consider its access and transport impacts.</p> <p>The proposal would use a 37 m long work zone on Jones Bay Road for construction deliveries and concrete pumping. This will require three taxi spaces to be relocated during construction hours, however, construction traffic to the Jones Bay Road work zone would only travel west and leave the site along Pymont Street. Other construction routes would use the existing one-way service link within the site.</p> <p>The Applicant has advised separate applications may be needed for 20 m articulated trucks or local road closures. These would be progressed separately with Council. Hoarding would be installed in addition to the existing colonnade for pedestrian safety.</p> <p>The Department is satisfied that construction traffic would be able to access the site efficiently and avoid two way construction movements along Jones Bay Road. Larger vehicle and road closures would be considered on their merits by Council</p> <p>The Department recommends an amendment to condition B19 to require an updated Construction Pedestrian and Traffic Management Plan (CPTMP) prior to the issue of a construction certificate for MOD 18.</p>	<p>Amend Condition B19 to require a revised CPTMP prior to the issue of a construction certificate for MOD 18.</p>
Vibration impacts	<p>The NIA provides an assessment of vibration standards for human comfort and structural integrity at the nearest receivers in accordance with German Standard DIN 4150 for historic or heritage buildings for on-site works and all structures.</p> <p>Public submissions raised concerns about vibration impacts during construction on nearby residential heritage buildings.</p> <p>The Department has carefully considered the Applicants vibration assessment and is satisfied the proposal would not result in adverse vibration levels on structures or human comfort as:</p> <ul style="list-style-type: none"> existing condition B21 requires a CNVMP to detail construction methods, vibration criteria and monitoring 	<p>Amend Condition B21 to require a new CNVMP for MOD 18 works.</p> <p>Insert new Condition D25 to manage vibration impacts on light rail assets.</p>

- the project does not involve new excavation works, which would limit vibration impacts during construction
- existing statement of commitments require site dilapidation surveys to determine sensitive receivers, including heritage buildings in Pyrmont Street
- the potential for structural vibration impacts at nearby structures and light rail assets are low, subject to conditions

Conditions requiring an amended CNVMP and requirements to protect light rail assets are recommended.

Air quality	<p>Public submissions raised concern about dust impacts during construction.</p> <p>The Applicant has advised dust from construction would be managed in accordance with a Construction Pedestrian Traffic Management Plan (CPTMP).</p> <p>The Department has considered the concern raised and notes that no excavation is proposed and a substantial amount of demolition and construction works would occur within existing buildings and semi-enclosed areas on-site, which will reduce air quality impacts to nearby residents.</p> <p>The Department is also satisfied that existing conditions D10 and F12 provide adequate safeguard against dust impact as they require the Applicant to prevent dust from affecting nearby receivers.</p>	No additional conditions required.
Light rail construction impacts	<p>The proposal seeks consent to construct several structural columns near the light rail alignment.</p> <p>TfSNW provided advice on construction management near the light rail corridor.</p> <p>The Department notes existing Condition B33 manages access to the light rail alignment for construction and recommends additional conditions to manage construction impacts on light rail assets, consistent with TfNSW advice.</p>	Insert new Conditions B34 to B42, D25 and E14 to E17 for construction management near light rail assets.
Tree Protection during Construction	<p>Public submissions raised concern about impacts to street trees along Jones Bay Road during construction and requested that any trees damaged during construction be replaced.</p> <p>The Department notes existing Condition B23 requires all trees to be retained (as part of the original major project application) and those near the site to be protected. If a tree needs to be removed, the Applicant is required to replace it with a tree of the same size and species.</p>	No additional conditions required.

The Department notes that the construction works associated with the alterations and additions are unlikely to cause damage to street trees subject to compliance with existing condition B23.

7 Evaluation

7.1.1 The Department has assessed the modification application and supporting information in accordance with the matters for consideration under Part 4 of the EP&A Act, including relevant environmental planning instruments. The Department's assessment concludes the proposed development is acceptable, subject to conditions as:

- it is substantially the same development as it existed following its transition to SSD
- the new built form complies with the applicable height and FSR controls at this location under the Sydney LEP
- the revised design of the proposal minimises its bulk, scale and visual impact to the greatest extent while delivering the functional requirements of the facility
- the proposal is considered to achieve an appropriate design outcome through a consistent architectural expression with the existing MUEF and use of high-quality materials
- the reduced bulk and scale of the proposal minimises view loss impacts from nearby residential properties and it would not result in any additional privacy or off-site overshadowing impacts
- the proposal would not result in any significant noise, vibration or traffic impacts and any residual impacts can be appropriately managed through mitigation measures and management plans
- is in the public interest as it will provide additional entertainment facilities in Sydney for a range of artistic and theatrical productions.

7.1.2 The Department considers the proposal can be approved, subject to conditions of consent (**Appendix D**). This assessment report is hereby presented to the Independent Planning Commission for determination.

Recommended by:



Anthony Witherdin
Director
Key Sites Assessments

Recommended by:



Anthea Sargeant
Executive Director
Key Sites and Regional Assessments

Appendices

Appendix A – List of Documents

The following supporting documents and supporting information to this assessment report can be found on the Major Project’s website as follows:

- Modification Report
- Response to Submissions
- Submissions

<https://www.planningportal.nsw.gov.au/major-projects/projects/star-mod-18-changes-muef>

Appendix B – Statutory Considerations

To satisfy the requirements of the EP&A Act, the Department’s assessment of the proposed modification has given detailed assessment to a number of statutory requirements. These include:

- The matters under section 4.55(2) of the EP&A Act
- The matters listed under Section 4.15(1) of the EP&A Act, including applicable environmental planning instruments (EPI) and regulations
- the reasons given by the consent authority for the grant of the consent that is sought to be modified.

The Department has considered these matters in its assessment of the proposal in

Table 5 | Consideration of 4.55(2) of the EP&A Act

Section 4.55(2)	Assessment
(a) 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 (if at all)	The Department is satisfied the proposed modifications would result in the development being substantially the same as the development that existed following the transition of MP08_0098 to SSD in accordance with <i>Schedule 2, Clause 3BA(6) of the Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017</i> . No changes to existing uses is proposed.
(b) has consulted with the relevant minister, public authority or approval body in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not,	Not applicable

Section 4.55(2)	Assessment
within 21 days after being consulted, objected to the modification of that consent	
(c) notification in accordance with the regulations	The modification application has been notified in accordance with the EP&A Regulations. Details of the notification are provided in Section 5 of this report.
(d) consideration of submissions	Details of the submissions received during the notification period are provided at Section 5 of this report.

Table 6 | Consideration of the matters listed under Section 4.15(1) of the EP&A Act

Section 4.15(1) Matter	Department's Consideration
(a)(i) any environmental planning instrument	The development, as proposed to be modified, remains permissible on the site and complies with the relevant height, FSR and site specific development standards.
(a)(ii) any proposed instrument	Not applicable
(a)(iii) any development control plan	Under clause 11 of the SRD SEPP, Development Control Plans do not apply to SSD.
(a)(iiia) any planning agreement or offer to enter into a planning agreement	Not applicable
(a)(iv) the regulations	The modification application meets the requirements of the <i>Environmental Planning and Assessment Regulations 2021</i> (Regulation), including the procedures relating to applications (Part 6), notification (Part 6, Division 6), and fees (Part 15, Division 1AA).
(b) the likely impacts of that development including the environmental impacts on both the natural and built environments, and social and economic impacts of the locality	The Department considers the likely impacts of the proposed modification are acceptable and have been appropriately addressed (refer to Section 6 of this report).
(c) the suitability of the site for the development	The site remains suitable for the continuation of the existing use as an entertainment facility..
(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 proposed modification is in the public interest.

Section 4.15(1) Matter	Department's Consideration
Reasons given by the consent authority for the grant of consent that is sought to be modified.	The Department has considered the reasons given by the consent authority for the grant of consent in its assessment.

Environmental Planning Instruments

To satisfy the requirements of section 4.15(1)(a)(i) of the EP&A Act, the Department has considered the relevant SEPPs as part of its assessment of the proposals and is satisfied that the modifications do not result in any inconsistency with them. Note that many old SEPPs has been consolidated into the new SEPPs from 1 March 2022. Most existing provisions in each old SEPP has been transferred as chapters with no policy changes. The following EPIs are relevant to the application:

- *State Environmental Planning Policy (Planning Systems) 2021*
- *Sydney Local Environmental Plan 2012*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Industry and Employment) 2021*
- *State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021*
- *Draft State Environmental Planning Policy – Remediation of Land*
- *Draft State Environment Planning Policy (Environment) (Draft Environment SEPP)*

The Department undertook a comprehensive assessment of the application against the relevant EPIs in its original assessment. The Department has considered the above EPIs and is satisfied the modifications do not result in any inconsistency with these EPIs. The Department has considered the development standards of the site, the relevant items if the Pyrmont Peninsula Urban Design Report in **(Table 7)** and matters of design excellence under the Sydney LEP below.

Compliance with height limit

The proposal is located within 'Area A' of the Sydney LEP Key Sites Map. Clause 6.63(2) of the Sydney LEP permits a building within 'Area A' of the site up to RL 51.8 m for the purpose of an entertainment facility. The amended proposal is for an entertainment facility (**Section 4**) and has a maximum height of RL 50.35 m and therefore complies with the entertainment facility specific height limit.

Compliance with floor space ratio

The site is 39,206 m² in area and has a FSR of 4.22:1, following the amendments of the Pyrmont Peninsula SEPP to the Sydney LEP. The proposal seeks to add 931 m² of GFA to the site, increasing its GFA from 139,998 m² to 140,929 m². The Department considers the GFA increase is minor and complies with the sites FSR development standard.

Table 7 | Consideration of Design Excellence under Clause 6.21C of the Sydney LEP

Design Excellence Consideration	Department's Consideration
(a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,	The proposal would replicate the geometric design of the existing MUEF for the new fly tower in aluminium cladding with a shadow gap to present a consistent design that is read as a separate element. The design would meet the functional requirements for modern theatre including a fly tower for Broadway style productions. The concrete finishes for the dressing room expansion would be consistent with existing built form at the site.
(b) whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain,	The alterations are located on the sites existing podium. They are not anticipated to impact the quality and amenity of the public domain (refer Section 6).
(c) whether the proposed development detrimentally impacts on view corridors,	The proposal would not impact any view corridors identified in the Pymont Place Strategy. The proposal would impact private views at nearby residential properties, however the Department considers these impacts are acceptable (refer to Section 6).
(d) how the proposed development addresses the following matters— (i) the suitability of the land for development, (ii) the existing and proposed uses and use mix, (iii) any heritage issues and streetscape constraints,	The site remains suitable for use as an entertainment facility within The Star Complex and is consistent with long term initiatives within Pymont Peninsula Sub-precinct masterplan to become an entertainment precinct. The proposal has been designed specifically to reutilise the existing MUEF to provide two new theatres, which will contribute to improved cultural and entertainment space in Sydney. The proposal would not result in any heritage impacts (Section 6) or constrain the streetscape.
(iv) the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,	The new fly tower has an acceptable relationship with the existing MUEF, existing tower of The Star Grand Hotel and the conceptual envelope for the northern corner of The Star site under the Pymont Place Strategy. The siting and position of the fly tower would not give rise to any unacceptable impacts in terms of separation, setbacks, amenity or urban form.
(v) the bulk, massing and modulation of buildings,	The amended proposal reduces the bulk and massing of the proposal in response to visual impact concerns, while still meeting the functional requirements for Broadway shows (Section 6). The amended dressing room expansion would be consistent with the modulation of the Jones Bay Road elevation above the existing podium.
(vi) street frontage heights,	The proposal would not alter the existing podium or its street frontage heights along Jones Bay Road. The

Design Excellence Consideration	Department's Consideration
	proposed dressing room extension would be set back from the sites existing podium by 4.3 m.
(vii) environmental impacts, such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity,	The proposal would not cause any unacceptable overshadowing, visual and acoustic privacy, noise, wind or reflectivity impacts (Section 6).
(viii) the achievement of the principles of ecologically sustainable development,	The proposal is consistent with the principles of ESD as it will re-use and adapt a significant amount of the existing MUEF structure and include materials for adequate insulation.
(ix) pedestrian, cycle, vehicular and service access and circulation requirements, including the permeability of any pedestrian network,	The proposal would not impact the existing pedestrian, cycle or vehicle requirements. The proposal will use existing access and loading areas (Section 6).
(x) the impact on, and any proposed improvements to, the public domain,	The proposal does not propose any improvements to the public domain and would not impact the public domain.
(xi) the impact on any special character area,	The proposal is not located in a special character area.
(xii) achieving appropriate interfaces at ground level between the building and the public domain,	As the proposal is located on top of the existing podium of The Star, it would not alter any interface at ground level or the public domain.
(xiii) excellence and integration of landscape design.	The proposal does not involve any changes to the sites landscape design.

Table 8 | Consideration of the Pymont Peninsula Urban Design Report and Design Guidelines

Urban Design Report Matter	Department's Consideration	Consistency
2.2 Movement	The proposal would not impact existing movement patterns or affect movement initiatives in the Pymont Peninsula.	Yes
2.3 Open Space Network	The proposal would not impact nearby public open space.	Yes
2.7 Views	The proposed alterations and additional do not fall into any of the view corridors identified in the urban design report. The new fly tower will impact open sky views but would not impact any water views along streets or from existing properties (refer to Section 6).	Yes
3 Heights 3.1 Height strategy	The proposal is in the Harbour Interface Zone. The proposal is to make alterations and additions to the existing MUEF and new built form to accommodate a fly tower is	Yes

3.2 Height objectives consistent with the height controls and in the context of existing 10 storey Darling Hotel tower (above the three-storey podium) and 17 storey tower of The Star Grand Hotel on the site and the allowance for a RL 110 m tower for a new hotel on the northern corner of The Star site. The proposal would not result in any additional off-site shadows (refer to **Section 6**).

4 Sub-precinct masterplans	The site is located in the Darling Island sub-precinct. The initiatives of this sub-precinct are focused on Union Street and Pyrmont Park. The proposal would not impact the delivery of these objectives or the character of the sub-precinct.	Yes
4.1 Sub-precincts		
Sun access	The proposal would not encroach into the sun access plane.	Yes

Guideline Matter	Department's Consideration	Consistency?
2.1 Objectives	The Department considers the alterations and additions achieve a high level of design and provide appropriate built form for that will achieve the functional requirements of modern entertainment venues. The proposal would maintain views between existing buildings and does not impact water views. The proposal would not increase off-site overshadowing or alter wind conditions around the site.	Yes
2.2 Design Guidance	The proposal would not compromise the vision of the PPS to deliver a future hotel at the northern corner of the site or the public domain vision for its surroundings.	Yes

Appendix C – Previous modifications to the consent

Prior to its transition to SSD, MP08_0098 had been modified 14 times. These modifications are summarised in **Table 9**.

Table 9 | Summary of MP08_0098 Modifications

Mod No.	Summary of Modifications	Consent Authority	Type	Decision & date
1	Modifications to Conditions A6 and B1 to provide clarity on what constitutes external artwork, lighting and signage, and alterations to the timing of compliance requirements for a number of conditions.	Executive Director	75W	Approved 3 March 2009
2	Modification of Condition B2 to clarify the approved hotel height and exclude lift overruns from the height limit.	Director General	75W	Approved 25 March 2009
3	Modification of Condition B4 to allow a staged agreement process between the Sydney Metro Authority and the proponent for excavation within the vicinity of the rail easement tunnel easement.	Director General	75W	Approved 6 April 2009

4	Modifications to the façade design, consolidation of the porte cochère, reconfiguration of the entry stairs, consolidation of the entry water features to a single water feature, relocation of the gaming entry point, and a 682 m ² extension to the entertainment deck.	Minister	75W	Approved 1 December 2009
5	Modifications to Conditions A2, A3 and D11 to alter the general project arrangement, reference to revised BCA capability statement, and extend the hours for construction to 3:00pm on Saturdays	Director	75W	Approved 20 July 2010
6	Approved deletion of Level 13 of the hotel, and increased the floor to ceiling heights on Levels 11 and 12 of the hotel. The application also reduced the number of suites on Level 6 to 12 of the hotel from 14 to 7 on each floor, resulting in an overall reduction in the total number of hotel suites from 252 to 173.	Director	75W	Approved 9 September 2009
7	Approved the construction of the MUEF on the Level 4 rooftop terrace area.	IPC	75W	Approved 29 July 2011
8	Partial enclosure of the existing outdoor terrace adjoining the Sovereign Room on Level 3.	Director	75W	Approved 17 November 2010
9	Relocation of the night club to the southern end of Level 2 and relocation of the restaurant to the northern end of Level 2.	Deputy Director General	75W	Approved 13 October 2011
10	To change the cladding material on the façade of the MUEF from profiled stainless steel sheeting, approved under MOD 7, to starfire glass.	Deputy Director General	75W	Approved 16 December 2011
11	Amend Condition F1 'No Speakers or Outside Music' to permit the playback of background music and DJ/live band/ amplified music events on the Level 3 Darling Pool Terrace of the Star Casino.	Deputy Director General	75W	Approved October 2012
12	Amendment of Condition F1 to allow for the installation and use of speakers on Level 1 Pirrama Road unenclosed gaming area and Level 3 Pirrama Road Entertainment Deck, and amend Condition F3(2) to allow for permanent 24-hours 7 days use of the Level 1 Pirrama unenclosed gaming area.	Secretary	75W	Approved 14 October 2014
13	A proposed new hotel and residential tower and associated alterations and additions involving both internal and external work.	IPC	75W	Refused 20 November 2019
14	Design changes including GFA increase, consolidation of existing approvals and plans, minor works schedule.	Executive Director	75W	Approved 4 October 2017
Transitioned to SSD in NSW Government Gazette on 24 January 2020				
15	Signage, external and internal design alterations.	Director	4.55(1A)	Approved 9 November 2021
16	Extend trial periods for the operation of unenclosed gaming areas on levels 1, 2 and 3 for an additional two years. Minor façade changes on the upper floors of The Star Grand Residences and The Star Grand Hotel towers. Expand balcony areas on level 17.	Director	4.55(1A)	Approved 17 March 2022
17	Construction of a new unenclosed gaming area and extension of trial period for the use of outdoor speakers and music.	Director	4.55(1A)	Under Assessment

Appendix D – Recommended Notice of Modification

- MP08_0098 MOD 18:

Appendix E – Consideration of public submissions

A summary of the Department’s consideration of the issues raised in submissions is provided in **Table 10**.

Table 10 | Department's consideration of public submissions

Issue	Department’s Consideration
<p>Noise</p> <ul style="list-style-type: none"> • Construction noise impacts • Noise attenuating materials should be used • Request hours of operation be restricted to 7 AM to 10 PM • No amplified music on the terrace • No external cleaning before 7 AM 	<p>Construction noise can be managed to an acceptable level, subject to the implementing mitigation measures including implementing respite periods for noisy works, using mobile screens where needed, notifying nearby receivers, undertake works within the MUEF envelope where possible, schedule construction works outside of sensitive time periods.</p> <p>The operation of the proposal can comply with the existing noise management framework and that the design and external materials are unlikely to contribute to any noise reverberation impacts.</p> <p>The proposal was amended to remove the outdoor terrace adjacent to Jones Bay Road and opposite the Watermark Tower and therefore, no outdoor amplified music would occur as part of the proposal. External cleaning at the site is separate to the proposal and would be managed by The Star Entertainment Group.</p> <p>Conditions are recommended to require updated construction noise management plans for the proposal.</p>
<p>Traffic and Transport</p> <ul style="list-style-type: none"> • Request that taxis do not queue in Jones Bay Road • Overcrowding on public transport. 	<p>The site is well connected by public roads and public transport and the potential for overcrowding on transport services is low due to the sites existing car parking and the reduced capacity of the new MUEF venues.</p> <p>On-street parking and taxis are managed by separate Council approvals and would only be relocated while the work zone is being used.</p>
<p>Amenity</p> <ul style="list-style-type: none"> • No additional illuminated signage should be permitted during or after construction • Privacy impacts from new dressing room windows 	<p>The proposal does not involve any changes to illuminated signage. Any illuminated signage during construction (e.g. on a crane) would be subject to separate assessment by Council.</p> <p>The amended proposal reduces the number of new windows at the dressing room addition and all new windows will be fitted with frosted glass to ensure privacy.</p>
<p>Consultation</p> <ul style="list-style-type: none"> • Request to establish a Community Consultative Committee for The Star complex. 	<p>The two new theatres will be managed by the Applicant, Foundation Theatres, not The Star Entertainment Group. The existing conditions of consent govern the operation of the broader Star complex, including complaints management and reporting to the Department.</p>
<p>Construction impacts</p> <ul style="list-style-type: none"> • Vibration impacts on heritage buildings 	<p>The Applicant’s NIA demonstrates construction works would not result on adverse vibration impacts at nearby residential buildings.</p> <p>The potential for structural vibration impacts at off-site heritage buildings is low as the site is located 57 m away</p>

Issue	Department's Consideration
	<p>and demolition/construction works will occur above street level and do not involve any excavation or other works which would cause significant vibration impacts.</p> <p>Conditions are recommended to require an updated construction noise and vibration management plan, including vibration monitoring and dilapidation reporting, consistent with the NIA.</p>
<p>Design, height, bulk and scale</p> <ul style="list-style-type: none"> • Height of the proposed fly tower • Bulk of new built form • Loss of open sky views at nearby residential dwellings 	<p>The height of the fly tower complies with the maximum height of RL 51.8 m permitted by the Sydney LEP for entertainment facilities.</p> <p>The proposal was amended in response to design, height, bulk, scale and visual impact concerns to minimise the external bulk of the fly tower, dressing room and plant additions and associated view impacts.</p> <p>The view loss impacts of the proposal are considered acceptable in the context of the requirements of the MUEF, the existing hotel towers at the site and future consideration of a hotel at the northern corner of the site.</p>
<p>Tree protection</p> <ul style="list-style-type: none"> • Tree and vegetation protection in the Jones Bay Road median 	<p>Existing conditions require the Applicant to protect existing trees around the site and replace them if they are damaged or need to be removed.</p>
<p>Social impacts</p> <ul style="list-style-type: none"> • Smoking impacts • Anti-social behaviour 	<p>The proposal would not expand outdoor smoking areas or increase the number of gaming tables or machines at the site.</p>
<p>Sustainability</p> <ul style="list-style-type: none"> • Consideration of Sustainable Sydney 2030-50 Plan 	<p>The Star site is well connected by public transport. The proposal will re-use a significant portion of the existing MUEF structure to deliver new cultural and entertainment venues which is consistent with the architectural expression of that part of The Star site consistent with Sustainable Sydney 2030-50. The Department considers the proposal is consistent with Directions 4, 5 and 8.</p>