

## PlanningNSW

**SUBJECT: Section 96(2), Amendments to Stage 1 conditions and envelopes, Luna Park Entertainment Complex, Milsons Point (DA 154-06-01, as modified by MOD 47-6-2002)**

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### 1. SUMMARY

On 21 June 2002, Metro Edgley Pty Ltd submitted an application under section 96(2) of the EP&A Act to modify certain Stage 1 conditions of consent and building envelopes for DA 154-06-01, 1 Olympic Drive, Luna Park, Milsons Point. The proposed amendments relate to the: -

1. Stage 1 consent building envelope for the Luna Circus; and
2. proposed pedestrian link between Glen Street and the Luna Park Entertainment Complex.

The proposed amendments are detailed by architectural plans, being MDA02/C, MSA04/A and MDA07/A, prepared by prepared by Hassell Pty Ltd and dated June 2001. The proposed amendments are considered to constitute “substantially the same development” in accordance with s.115(g) of the Environmental Planning And Assessment Regulation 2000.

The Minister for Planning is the consent authority under clause 10 of State Environmental Planning Policy No. 56 – Sydney Harbour Foreshores and Tributaries (SEPP 56). The proposed modifications follow approval of a Stage 1 development application for redevelopment of the Luna Park Entertainment Complex (DA 154-06-01) by the Minister for Planning on 31<sup>st</sup> January 2002.

The original development was integrated development under section 91 of the EP&A Act, as an approval is required from the Waterways Authority, under Part 3A of the Rivers and Foreshores Improvement Act 1948. The Waterways Authority provided standard conditions to the Stage 1 DA, and were consulted regarding these proposed amendments.

It is recommended that the current section 96(2) application be approved, subject to consent conditions.

### 2. SUBJECT SITE

The Luna Park site extends along the south-eastern tip of Milsons Point, between the higher slopes of Glen and Northcliff Streets and the waterways and foreshore of Lavender Bay. The site contains a foreshore boardwalk, pedestrian walkways, recreation space for amusements and rides, administration facilities, and plant.

Surrounding land uses include: -

- the North Sydney Olympic Pool directly south of the site;
- Bradfield Park, southeast of the site, and under the Sydney Harbour Bridge northern gantry;
- a number of commercial and residential office buildings, directly east of the site, and significantly elevated to dominate the Milsons Point skyline; and
- land owned by the State Rail Authority, northeast of the site, used for the stabling of trains.

### **3. PROPOSED CHANGES AND ASSESSMENT**

The proposed changes are shown on the drawings tagged "A". In summary, the main changes are:

#### **(a) Amendment to the Luna Circus building envelope.**

The S96 application seeks to vary the building envelope for the Luna Circus approved under the Stage 1 consent. The envelope is exceeded in footprint but not in height. The footprint variation is a consequence of the curved "bullnose" skin wrapping around the Circus structure along east and west elevations. The envelope of the tent structures is within the approved envelope at ground level, but protrudes up to 1.25 metres beyond the envelope at a height of 10 metres above ground.

#### **(b) Pedestrian Link between Glen Street and Luna Park Entertainment Complex**

The S96 application seeks to provide a landing point for the Glen Street pedestrian links at a junction northeast of the Luna Circus and Big Dipper slab, and east of Coney Island. The existing Stage 1 consent permits the link over the Coney Island roof to a point west of Coney Island and adjoining the foreshore boardwalk.

### **4. STATUTORY CONTEXT**

The Minister for Urban Affairs and Planning is the consent authority under clause 10 of State Environmental Planning Policy No. 56 – Sydney Harbour Foreshores and Tributaries (SEPP 56).

### **5. CONSULTATION**

In accordance with clause 119 of the Regulations, the subject S96 application, and a Stage 2 DA for the Phase E Luna Park works, were placed together on public exhibition at PlanningNSW head offices and at North Sydney Council between 12<sup>th</sup> July 2002 and 2<sup>nd</sup> August 2002.

The application was advertised in the Sydney Morning Herald and the Mosman Daily on 12 July 2002. Relevant public authorities and nearby landowners and occupants were notified by mail. The notification was carried out in accordance with the North Sydney DCP 2002, however, the exhibition period was 7 days longer than the minimum specified in the DCP. The notification mail-out was based on the same area PlanningNSW and North Sydney had earlier notified in previous consents for the site with addresses taken from the North Sydney Council rates database in accordance with the DCP to approximately 4725 properties. The DA was placed on public exhibition at PlanningNSW's principal office and at North Sydney Council between 12<sup>th</sup> July 2002 and 2<sup>nd</sup> August 2002.

A total of 18 public submissions were received from surrounding residents, businesses, general public and government departments/relevant authorities addressing the Stage 2 DA for Phase E and the subject S96 modification of the Stage 1 consent. Of these, two (2) submissions, from A&J Butterfield and R Riches, raise concern with the variation of the Luna Circus building envelope.

**North Sydney Council:** At its meeting of 19<sup>th</sup> August 2002, Council specified no objections to any of the proposed elements under this S96 application.

## **6. VIEWS OF SYDNEY HARBOUR FORESHORE DESIGN REVIEW PANEL**

The proposed modifications were presented to the Sydney Harbour Foreshore Design Review Panel (SHFDRP) on 21<sup>st</sup> June 2002. The SHFDRP commented: -

*“The new public connection from Glen Street is supported with the connection moved south and a new stair travelling north rather than across the roof of the north facing terrace.”*

The panel made no direct comment on the variation to the Luna Circus building envelope. However it did recommend proposed design and colour/material amendments to the detailed Luna Circus roof structure in its response to the Stage 2 DA for Phase E works.

## **7. CONSIDERATION OF ISSUES**

Issues raised by submissions are highlighted in ***bold and italics***, and the relevant conclusions of this assessment (comment), are discussed below:

### ***(i) Revised Luna Circus building envelope***

The envelope is exceeded in footprint but not in height. The footprint variation is a consequence of the curved “bullnose” skin wrapping around the Circus structure along east and west elevations. The envelope of the tent structures is within the approved envelope at ground level, but protrudes up to 1.25 metres beyond the envelope at a height of 10 metres above ground.

**Comment:** The revised envelope does not fully occupy the Stage 1 envelope and complied with the Stage 1 consent height limit, and the envelope at ground level. The Stage 1 envelope variation will have minimal visual impact when viewed from both the cliff top and from the Lavender Bay and Sydney Harbour waterways. Furthermore, the “hoods” located at the Circus structure northern and southern ends structure are decorative features to the big top theme, and are minor decorative structures that are permitted to exceed the envelope in accordance with the Stage 1 consent. Consequently the revised building envelope is supported.

### ***(ii) Luna Circus tent structure***

The SHDRP has requested that the applicant requested to resolve the following: -

- (a) Revise the roof design of the circus building to reflect the traditional circus tent form as a tensile structure as an alternative to a fabric draped over a portal truss;
- (b) The experience along the Midway be realised as originally proposed, with more expression, activity and fun.
- (c) The foyer should be redesigned to celebrate the entrance to the circus.

**Comment:** Whereas the design resolution of the Luna Circus roof structure is a matter for the Stage 2 DA for Phase E, the shape of the roof structure has impact on the amended building envelope. The applicant has responded to the panel comments with the following: -

- Retain proposed tent structure in order to contain acoustic isolation.

- A tensile roof structure will increase the tent height beyond the approved Luna Circus envelope.
- Elevated display/performance platforms to assist in activating Midway.
- Additional Midway booths are introduced to assist in activating Midway.
- The Luna Circus foyer is penetrated out to emphasise the entrance.
- A revised pattern of colours/ graphics applied to the Luna Circus tent structure.

For reasons stated above and under matter for consideration (i) above, the revised Luna Circus envelope is supported.

**(iii) Revised pedestrian link from Glen Street to Luna Park complex**

The Stage 1 approved pedestrian link connected the Glen Street walkaways in front of the Glenn Street commercial building, directly across the roof of the Coney Island, and landing on the western foreshore of Coney Island. The S96 revised link provides a suitable landing point at a junction northeast of the Luna Circus and Big Dipper slab, and east of Coney Island.

**Comment:** The revised link avoids any connection with the heritage listed Coney Island building. Furthermore, the altered route avoids any public risk associated with the public accessing or impacting the roof of the heritage Coney Island building. The altered link maintains public views of the Lavender Bay waterways. The link also maintains a variety of direct pedestrian access to, and consequently integrated interface with, the Midway, Luna Circus, Children's Play Area and foreshore/boardwalk. Consequently, the revised pedestrian link is concluded to be satisfactory and is supported.

**8. SECTION 79C EVALUATION**

The original Stage 1 proposal, and current proposed amendments, have been assessed against the matters for consideration under section 79C of the EP&A Act in the Department's planning report. In particular: -

**(i) Luna Park Act 1990**

The proposed variations are not found to be inconsistent with the provisions of the Luna Park Act 1990.

**(ii) Luna Park Plan of Management**

The proposed variations are generally compliant with the provisions of the Luna Park Plan of Management. Reasons for the proposed minor variation to the Luna Circus building envelope are addressed in this report, with the conclusion that the amendments will not cause any significant environmental and visual impacts, and will not compromise the use and amenity of the Midway public domain.

**(iii) SEPP 56 - Sydney Harbour Foreshores and Tributaries**

The proposed variations do not alter the Stage 1 development compliance with the SEPP 56, Guiding Principles .

**(iv) SREP 23 - Sydney & Middle Harbours**

The proposed variations do not alter the Stage 1 development compliance with the provisions of SREP 23.

**(v) North Sydney LEP 2001**

The proposed variations do not alter the Stage 1 development compliance with the provisions and controls of North Sydney LEP 2001.

On the basis of the assessment of the Stage 1 DA against relevant statutory considerations, the proposal was found to warrant approval. It is considered that the proposed changes are of a minor scale and do not alter this position.

**9. CONCLUSION**

The proposed development as modified is considered to be substantially the same development as that originally approved. The Waterways Authority has been consulted and raised no concerns relating to the proposed modification. The application has been notified in accordance with the Regulations. All submissions received in the period prescribed by the Regulations have been considered. The application has been considered with regard to the matters raised in s79C of the Act and is considered to be satisfactory.

The proposed changes are minor and have been assessed as having no major adverse impacts on the building's design, appearance, bulk and scale.

The Applicant has been consulted on the draft Instrument of Modification and has raised no issues of concern. On balance, it is considered that the section 96(2) application should be approved, subject to conditions.

**10. RECOMMENDATION**

It is RECOMMENDED that the Minister, under section 96(2) of the EP&A Act, and in accordance with clause 10 of SEPP 56 - Sydney Harbour Foreshores and Tributaries, modify the consent for DA 154-06-01 by signing the attached Instrument of Modification (tagged 'A').

**Signed:**



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