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11 April 2017

Carolyn McNally  
Secretary  
Department of Planning and Environment  
Level 22, 320 Pitt Street  
SYDNEY NSW 2000

Attention: Alexandra O'Rourke

Dear Alexandra,

**RESPONSE TO REQUEST FOR INFORMATION - DA8240  
LUNA PARK SYDNEY - WILD MOUSE TENANCY FITOUT AND EXTERNAL WORKS**

This letter has been prepared by JBA on behalf of Luna Park Sydney Pty Ltd (the Applicant) in relation to the proposed fitout works at the existing kitchen, servery and function space within the ground floor of the Wild Mouse Building, Luna Park (the site). The Development Application (DA 8240) was lodged with the Department of Planning and Environment in February 2017.

DA 8240 was publicly exhibited between 17 February 2017 and 20 March 2017, during which time three submissions were raised in relation to the DA. Additionally, the Department requested further clarification in regards to the capacity of the proposed function centre, as well as potential noise and lighting impacts. A response to these issues has been provided at **Sections 1.0 to 4.0** below.

**1.0 CAPACITY OF THE FUNCTION CENTRE**

*The Department requests that further details are required regarding the current capacity of the function centre which operates beneath the Wild Mouse building, including patron capacity, usual hours of operation, etc.*

**Response:** The Stage 1 DA (Ref:154-06-2001), approved by the (then) Department of Planning on 31 January 2002, provided for the staged approval of building envelopes, uses and general master-planning at the Luna Park Entertainment Complex. Under the Stage 1 DA, hours of operation for the following specific uses across the precinct were endorsed as follows:

- Internal Spaces (including function and reception rooms; theatre, performance and special event spaces; and internal rides and amusements) – 7am to 1am the following morning every day; and
- Restaurants, brasseries, cafes and shops – 7am to 1am the following morning between Monday and Saturday, and 7am to 12 midnight on Sunday.

DA 8240 will not alter the approved hours of operation for the Wild Mouse tenancy.

Subsequently, a Stage 2 DA for the Luna Park Entertainment Complex was approved on 20 January 2003. Addressing the detailed design of envelopes and intended uses of buildings approved under the Stage 1 DA, the Stage 2 DA (Ref:201-6-2002), specifically permitted that a 'restaurant and function room' replace the existing Dodgem Car ride at ground floor internal space of the Wild Mouse. This DA additionally permitted this internal space to operate with a capacity for up to 300 patrons.

DA 8240 does not seek to alter the existing use of the subject Wild Mouse internal space. The refit works are intended to strengthen an existing food and drink premises for the benefit of visitors and guests to the entertainment complex, and will not result in any new or significant adverse impacts.

Separately, while DA 8240 has sought consent for a maximum allowable capacity of 450 patrons, this is to allow for standing-room only functions within the existing space. However, it is envisaged that the majority of the time the space would be used for the less intensive restaurant use, which would have a seated capacity of approximately 150 patrons.

## 2.0 NOISE IMPACTS

*The Department requests that an assessment of any noise impacts resulting from the proposed upgrade to the function centre is carried out and provided. The additional information should have regard to the impacts on residents and measurements of noise emanating from the function centre.*

**Response:** Under the Stage 1 approval for DA 154-06-01 (as described above), the following was conditioned:

102. *The LA10, 1-hour noise level emanating from buildings and internal spaces shall not exceed 60dB(A) at any time, measured at the closest residential facade. A report shall accompany any subsequent development application for any Luna Park building detailing acoustic assumptions, methodology, results and a certificate, prepared by suitably qualified Acoustic Consultant, to ensure that the 60dB(A) level will be achieved.*

Following the approval of the Stage 1 DA, the Stage 2 DA provided the above work to determine the ability of the proposed restaurant and function room to comply with various noise requirements, which included:

- The Acoustic Assessment prepared by Acoustic Logic dated 27 May 2002, which proposed specific noise attenuation controls which were reflected in the Phase E Consent Conditions; and
- The recommended Noise Management Strategy and Annual Review Strategy which were detailed in the Acoustic Plan of Management prepared by Hyder Consulting, dated 4 June 2002.

Clause 19A of the *Luna Park Site (LPS) Act 1990* is also a relevant consideration to this application, which states that “the emission of noise from the Luna Park site does not constitute a public or private nuisance.” The Clause additionally outlines that noise up to a level of 85dB(A)<sub>LA10, 15 mins</sub> at a measurement of the closest residential façade from the site is covered by this Clause, which needs to weigh into any noise assessment of the proposal.

Given that use of the site was previously envisaged for an entertainment purpose, it is considered overly onerous for a further detailed noise assessment to be required in this case. Rather, it is requested that any future consent be conditioned such that the proposal can comply with the Stage 1 60dB(A)<sub>LA10</sub> noise limit for the building, as well as continue to comply with the noise mitigation requirements under the previous DAs and compliance with the LPS Act 1990.

This is especially relevant given the qualitative nature of noise impacts, and the impracticability of enforcing multiple different noise standards across the various components of the site. The application of existing noise controls to future DAs is seen as a practical measure of ensuring that the proposal continues to not have any adverse impacts on surrounding sensitive receivers, as outlined in the Stage 1 and Stage 2 DAs, as well as the provisions of the LPS Act 1990.

Recommendation: Given the long standing nature of acoustic conditions in Luna Park, which have resulted from a series of previous detailed studies, the maximum noise threshold for the site is already known and enforced through previous Development Consents, as well as the LPS Act 1990. It is also very difficult to enforce or assess compliance against multiple contradictory acoustic conditions, when dealing with an impact as subjective as noise generation. It is therefore requested that the proposal be conditioned to be consistent with these previous consents.

### 3.0 LIGHTING IMPACTS

The Department requests that a Lighting Impact Assessment is prepared, which includes:

- information on current background lighting levels;
- the luminance levels of the additional lighting proposed;
- any light spillage to residential / commercial properties or other significant areas / buildings;
- details regarding any measures to control illumination (i.e. details around curfews for the different levels of illumination);
- whether the proposed lighting complies with the Luna Park DA Lighting Strategy (required by Condition 26 of DA201-6-2002);
- how any impacts will be mitigated; and
- any other matters raised by the relevant environmental planning instruments.

**Response:** Under the Stage 1 DA approval, Condition 124 addressed the issue of lighting by way of requiring that the following be undertaken for the Luna Park site:

*124. A Lighting Strategy for the whole Luna Park site, prepared by an independent and qualified lighting engineer, shall be submitted as part of any subsequent development application. No new lighting structures shall be applied to any building or structure prior to the approval of the Lighting Strategy. The Strategy shall include details of: -*

- (a) Lighting fixtures to new buildings and structures;*
- (b) Methods of lighting fixture to buildings and structures;*
- (c) Solar powered lighting/ technology to reduce the amount of energy for lighting;*
- (d) Intensity of illumination;*
- (e) Lighting impact on surrounding residential and commercial buildings;*
- (f) Proposed hours of illumination;*
- (g) Proposed illumination for after hours-of operation; and*
- (h) Retention of the Traditional external lighting of Luna Park's heritage items*

In response to this requirement, the Luna Park DA Lighting Strategy was prepared by Adamus Consulting Practice (Job number 2751, Revision D, dated 28.05.02) and was required to be complied with under the subsequent Stage 2 DA. Compliance with relevant Australian Standards was also required under this DA, which contained the following Condition of Consent:

*26. All lighting shall comply with the "Luna Park DA Lighting Strategy" prepared by Adamus Consulting Practice (Job number 2751, Revision D, dated 28.05.02), and with relevant Australian Standards, in particular Australian Standards AS/NZS 1158.3.1.1999 "Pedestrian Area (Category P) Lighting – Performance and installation design requirements", and AS4282 "Control of the obtrusive effects of Outdoor Lighting". Lighting shall be designed to minimise light spill to adjoining residential.*

It is requested that this condition be carried across to the subject DA currently under assessment. This is primarily due to similar reasoning to the acoustic issue above, in that it will be extremely difficult to determine the impact of lighting specifically located on the Wild Mouse Building. Rather, a compliance based assessment is seen as a more effective mechanism, which will ensure that it is in the interests of Luna Park to not generate any adverse impacts in regards to lighting.

Recommendation: Given the established nature of lighting conditions in Luna Park, which have resulted from previous detailed studies, lighting conditions have been enforced through previous conditions of consent. It is also very difficult to enforce or assess compliance against multiple contradictory lighting conditions. It is therefore requested that the proposal be conditioned to be consistent with these previous consents.

#### 4.0 RESPONSE TO SUBMISSIONS

Three submissions were received by the Department of Planning and Environment during the notification period for DA 8240. Each of the issues raised under these submissions has been responded to at **Table 1** below. It is noted that North Sydney Council has not raised any issues in regards to the subject DA.

**Table 1** – Response to submissions

| Issue Raised                                                                                                                                                                             | Response                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| The proposed works are objected to as the adjacent public park on Northcliff Street (Harry Seidler Park) has not been redeveloped as previously agreed.                                  | This matter is outside the relevant matters for consideration in this DA.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| The noise associated with the proposed use of the tenancy will be excessive and would negatively impact upon neighbouring residents.                                                     | <p>This submission relates primarily to the issue of external noise emitting from the gathering of people at the site. The subject development will remain compliant with the 60dB(A) noise limit for the Luna Park Entertainment Complex as required under Condition 102 of DA 154-06-01. Additionally, the site will remain compliance with the acoustic management provisions of the LPS Act 1990 discussed above.</p> <p>The proposal will not alter the existing and approved use of the Wild Mouse tenancy, being a restaurant and function room. Dining spaces will also largely be contained internally as to minimise the emanation of noise into the surrounding area.</p> |
| The western façade of the Wild Mouse Building should not encroach onto the public waterfront boardwalk more than that existing.                                                          | The proposal does not seek to extend the Wild Mouse Building onto the public boardwalk. The proposed alterations to the western façade are decorative only.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Concern that removal of part of the existing lightweight rooftop wall could release more mechanical noise from the Wild Mouse ride.                                                      | The removal of part of the existing lightweight rooftop wall will have negligible implications on noise levels. The walls are decorative in nature and provide little acoustic absorption.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| The original proposal for the Wild Mouse Building featured a façade stylised to represent yellow cheese. The proposed design is a further departure from the design originally approved. | The proposed design of the Wild Mouse Building façade will positively refresh the aged detailing that currently exists.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |

#### 5.0 CONCLUSION

The information contained within this letter is considered sufficient for the Department of Planning and Environment to continue its assessment of DA 8240. Should you have any queries about this matter, please do not hesitate to contact me on 9956 6962 or [tsmith@jbaurban.com.au](mailto:tsmith@jbaurban.com.au).

Yours faithfully



Tim Smith  
Urban Planner



Andrew Duggan  
Director