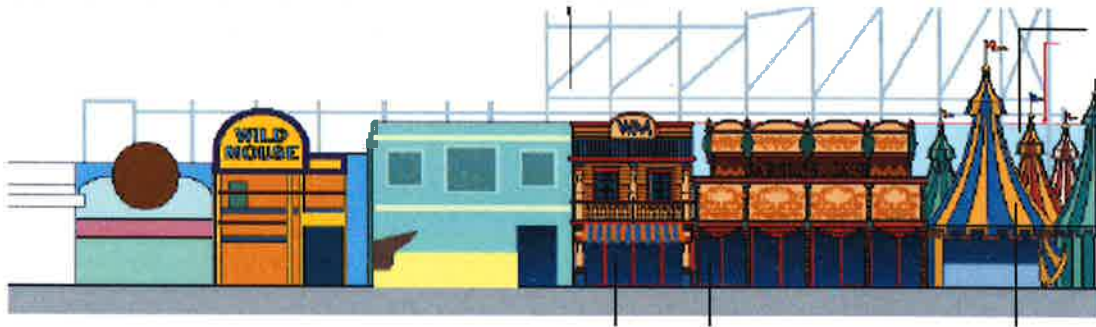




**DEVELOPMENT APPLICATION
ASSESSMENT REPORT:**

***Wild Mouse Tenancy Fitout – Luna Park,
Milsons Point***

DA 8240



Environmental Assessment Report
Assessment under Part 4 of the
Environmental Planning and Assessment Act
1979

July 2017

ABBREVIATIONS

Applicant	Luna Park Sydney Pty Ltd
CIV	Capital Investment Value
Commission	Planning Assessment Commission
Consent	Development Consent
Council	North Sydney Council
DCP	Development control plan
Department	Department of Planning and Environment
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPI	Environmental Planning Instrument
ESD	Ecological sustainable development
LED	Light emitting diode
LEP	Local Environmental Plan
LGA	Local Government Area
Minister	Minister for Planning
Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
RtS	Response to Submissions
Secretary	Secretary of the Department of Planning and Environment
SEPP 64	State Environmental Planning Policy No. 64 – Advertising and Signage
SEE	Statement of Environmental Effects

Cover photo: Photomontage of East elevation and North elevation (Source: Applicant's Architectural Drawings).

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1. BACKGROUND

1.1 Introduction

This report assesses a development application (DA 8240) for internal and external works to an existing building (known as the Wild Mouse Building) lodged by JBA Urban Planning Consultants Pty Ltd on behalf of Luna Park Sydney Pty Ltd (Applicant) under Part 4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

1.2 The site

The site (part of Lot 4 DP 1066900) is located at 1 Olympic Drive, Milsons Point, within the Luna Park theme park. Luna Park is situated on the northern shore of Sydney Harbour within the North Sydney local government area (**Figure 1**).



Figure 1: Site location (Source: Nearmap)

The Luna Park site comprises an amusement area with rides, buildings, food and beverage outlets, administration areas and amenities, a public foreshore boardwalk along the western boundary and a clifftop area to the east of the site (see **Figure 2** and **Figure 3** below). The Luna Park Precinct is listed as a State heritage item and is also within the Sydney Opera House buffer zone.

The Wild Mouse Building is located along the Midway within Luna Park, with Coney Island to the north, Crystal Palace to the south, Tumblebug to the east and the boardwalk and Sydney Harbour to the west (see **Figure 2** and **Figure 3**). The Wild Mouse Building is currently used as a function centre, kitchen and café (Fish n Sips) on the ground floor. The heritage-listed Wild Mouse ride sits above the Wild Mouse Building (see **Figures 5, 6 and 7**).



Figure 2: Site location and context within Luna Park (Source: Nearmap)



Figure 3: Aerial image of Luna Park (Source: Google Images (Pinterest))

1.3 The site context

The Sydney Harbour Bridge and North Sydney Olympic Pool are situated to the south of Luna Park, with a railway storage area for Sydney Trains connecting to the North Shore Railway Line positioned immediately to the north. Luna Park sits below a large cliff face that separates it from higher density office and residential development to the east (see Figure 1).

The site sits on the eastern shoreline of Lavender Bay, with Sydney Harbour Bridge and Kirribilli to the east, Blues Point to the west, Dawes Point to the south-west and Sydney Opera House to the south-east. The site is serviced by the Milsons Point train station approximately 500 m to the north and the Milsons Point ferry to the south. The uses surrounding the site are predominately high density residential along the site's eastern and northern boundary with commercial development and smaller-scale residential development located further to the north and east within the suburbs of Lavender Bay and Kirribilli.

2. PROPOSED DEVELOPMENT

2.1 Summary of proposed development

The Applicant is seeking consent to undertake the following works (see Figure 4):

- upgrade to the function space beneath the Wild Mouse ride and maintaining the 300-patron maximum capacity
- reconfiguration of the existing kitchen (including minor internal structural alterations)
- removal of the existing blade walls fronting the boardwalk in place of external louvre blinds to the face of retained windows
- decorative façade changes, in addition to a new 'Stage Set' shop front along the Midway elevation
- partial removal of existing rooftop walls to further expose the structure of the Wild Mouse ride
- installation of new fabric awnings, entry columns and canopies
- installation of illuminated business identification sign.

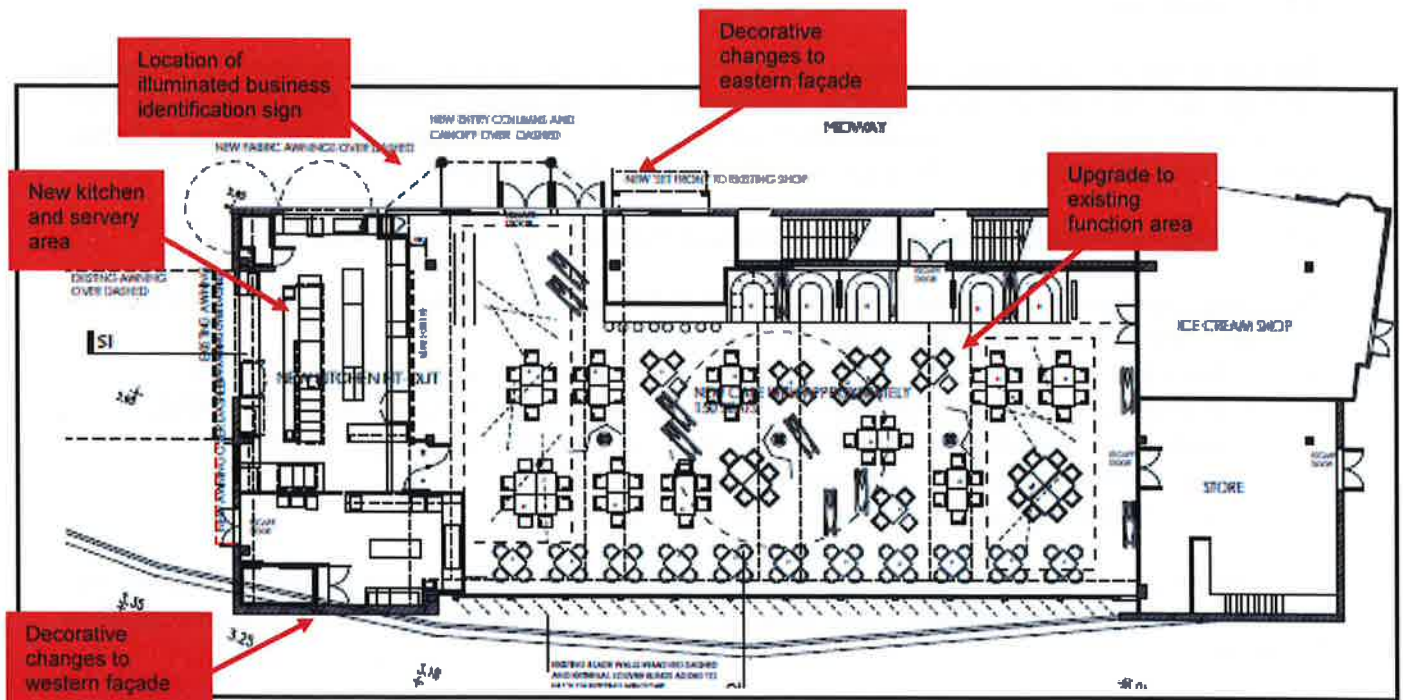


Figure 4: Proposed floor plan (Source: Applicant's architectural plans)

3. STATUTORY CONTEXT

3.1 Consent Authority

Luna Park is listed as a State Significant Precinct under the State Environmental Planning Policy (State Significant Precincts) 2005 (SSP SEPP). Pursuant to clause 5 of Schedule 6 of the SSP SEPP, development with a capital investment value (CIV) of not more than \$10 million is assessed under Part 4 of the EP&A Act and the Minister is the consent authority.

As the proposed development has a capital investment value of \$950,000, the Minister for Planning is the consent authority for the application under Part 4 of the EP&A Act.

3.2 Delegated authority

On 16 February 2015, the Minister delegated functions to determine applications under section 80 of the *Environmental Planning and Assessment Act 1979*, to Executive Directors who report to the Deputy Secretary, Planning Services where:

- the relevant local council has not made an objection; and
- a political disclosure statement has not been made; and
- there are less than 25 public submissions in the nature of objections.

As the local council has not made an objection, no political disclosures have been made, and less than 25 (three were received) public submissions by way of objections were received, the Acting Executive Director, Regions may determine the application under delegation.

3.3 Permissibility

The site is zoned SP1- Special Activities: Luna Park under the North Sydney Local Environmental Plan 2013 (North Sydney LEP). The proposed development is categorised as development for the purpose of Luna Park and is therefore permissible with consent.

3.4 Heritage

The site is listed on the Stage Heritage Register and works at Luna Park require approval under the *Heritage Act 1977*. On 24 January 2017, an exemption under section 57(1) of the *Heritage Act 1977* for the works was granted by Property NSW, as landowner, under delegation, and therefore no further approval is required under the *Heritage Act 1977* (see **Section 5.3** below).

3.5 Environmental planning instruments and development control plans

The following environmental planning instruments (EPIs) and development control plans (DCPs) are relevant to the assessment of the proposed development:

- State Environmental Planning Policy (State Significant Precincts) 2005 (SSP SEPP)
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SREP 2005)
- State Environmental Planning Policy No. 64 – Advertising and Signage (SEPP 64)
- North Sydney Local Environmental Plan 2013 (LEP 2013)
- North Sydney Development Control Plan 2013 (DCP 2013).

The Department's consideration of the relevant EPIs and DCPs and assessment guidelines has found the proposal complies with these items. Detailed consideration is provided in **Appendix B** of this report.

3.6 Objects of the EP&A Act

Decisions made under the EP&A Act must have regard to the objects set out in section 5 of that Act. The Department has considered the objects of the EP&A Act in **Table 1** and is satisfied that the proposal complies with all objects.

Table 1: Consideration of the EP&A Act objects

Objects of the EP&A Act	Consideration
(a) <i>to encourage:</i>	
(i) <i>the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment</i>	The proposal does not impact on natural and artificial resources, as it involves development within previously disturbed land on the Luna Park site, outside areas of ecological significance.
(ii) <i>the promotion and co-ordination of the orderly and economic use and development of land</i>	The proposed land use is permitted and the merits of the proposal are considered in Section 5 .
(iii) <i>the protection, provision and co-ordination of communication and utility services</i>	Given the minor nature of the proposed works, no existing infrastructure is anticipated to be impacted or require relocation as a result of the proposed works.
(iv) <i>the provision of land for public purposes</i>	The proposal will contribute towards the range of entertainment facilities provided at Luna Park for the enjoyment of the people of Sydney and its visitors.
(v) <i>the provision and co-ordination of community services and facilities</i>	The proposal will contribute towards the range of entertainment facilities provided at Luna Park for the enjoyment of the people of Sydney and its visitors.
(vi) <i>the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats</i>	The proposal will have no adverse impact on the environment including native animals and plants, threatened species and ecological communities and their habitats.
(vii) <i>ecologically sustainable development (ESD)</i>	Section 3.7 of this report considers the proposals against the principles of ESD.
(viii) <i>the provision and maintenance of affordable housing</i>	The proposal does not involve the provision or maintenance of affordable housing.
(b) <i>to promote the sharing of the responsibility for environmental planning between the different levels of government in the State</i>	The Department consulted with North Sydney Council and other relevant agencies on the proposal (see Section 4).
(c) <i>to provide increased opportunity for public involvement and participation in environmental planning and assessment.</i>	Section 4 sets out details of the Department's public exhibition of the proposal.

3.7 Ecologically sustainable development

The EP&A Act adopts the definition of ecologically sustainable development (ESD) within the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes.

The Department has considered the proposed development in relation to the ESD principles (**Table 2**), and is satisfied the ESD principles have been applied in the decision-making process via an assessment of the environmental impacts of the proposal.

Table 2: Consideration of ESD principles

ESD principles	Consideration
(2) ESD can be achieved through the implementation of the following principles and programs:	
(a) the precautionary principle	<p>The proposal will not result in any serious or irreversible environmental damage, as:</p> <ul style="list-style-type: none"> • the works are related to minor internal and external fit-out works to existing buildings and will not involve significant construction works or operational activities that would give rise to air quality or water quality impacts • the proposed development aims to upgrade the existing function centre beneath the Wild Mouse ride and will maintain the heritage significance of the Wild Mouse ride and Luna Park.
(b) inter-generational equity	<p>The proposal will not result in adverse impacts on the health, diversity and productivity of the environment for the benefit of future generations, as:</p> <ul style="list-style-type: none"> • the works are relatively minor • the proposal will increase retail opportunities and improve the amenity of the site and patron enjoyment of the Park.
(c) conservation of biological diversity and ecological integrity	<p>The proposal will have no significant impact on biodiversity or ecological value, as the site is highly developed and the works relate only to an existing building.</p>
(d) improved valuation, pricing and incentive mechanisms	<p>Given the minor nature of the works proposed, the proposed development will have very limited impact on the environmental factors of the assets and services.</p>

3.8 Environmental Planning and Assessment Regulation 2000

Subject to any other references to compliance with the *Environmental Planning and Assessment Regulation 2011* (EP&A Regulation) cited in this report, the requirements for Notification (Part 6, Division 7) and Fees (Part 15, Division 1) have been complied with.

3.9 Strategic context

The Department considers the proposal is consistent with the following State strategies:

- the objectives of *NSW 2021* including enhancing the cultural and natural heritage in NSW through the conservation and revitalisation of the Wild Mouse Building, which sits beneath the heritage item, the Wild Mouse ride
- the objectives of *A Plan for Growing Sydney* including *Action 1.1.4* which seeks to deliver the Government's vision for Sydney Harbour, incorporating the cultural ribbon and surrounding foreshore lands. The objectives and actions will be achieved by the revitalisation of the Wild Mouse Building which will generate increased tourism, social, economic and community benefits to the Luna Park precinct
- will enhance the Northern District identified in the *Draft Towards our Greater Sydney 2056* and *Draft North District Plan* by contributing to the growth of the tourism economy at Luna Park and through respecting and enhancing the heritage value of Luna Park.

4. CONSULTATION AND SUBMISSIONS

4.1 Exhibition

In accordance with section 79A of the EP&A Act and the EP&A Regulation, the Department publicly exhibited the application for 32 days from 17 February to 20 March 2017. The application was publicly available on the Department's website, as well as being exhibited at the Department's Information Centre and at North Sydney Council's office.

The Department also placed a public exhibition notice of the application in the *Mosman Daily* on 16 February 2017 and notified Council in writing.

Consistent with the requirements of North Sydney DCP, the Department notified all landowners adjoining the site. Additionally, the Lavender Bay Precinct Committee, Property NSW, North Sydney Council (Council) and the Office of Environment and Heritage (Heritage Division) were notified of the proposal.

4.2 Public Authority Submissions

Council and the **Heritage Division** both advised they had no comments to make in respect of the application.

4.3 Public submissions

The Department received three public submissions in response to its exhibition of the application, one of which objected to the proposal. The objection raised concerns about Luna Park's failure to develop a park on the northern side of the site, although the Department notes this submission is not relevant to the subject application.

One submission raised concerns about noise that currently emanates from the function centre during weeknights. The third public submission was made by the Lavender Bay Precinct Committee which raised concerns about the proposed works to the western façade of the Wild Mouse Building in terms of encroachment on the boardwalk, additional noise impacts and the proposed façade decorations (see **Section 5** below).

4.4 Response to Submissions

The Applicant provided a Response to Submissions (RtS) on 11 April 2017, which responded to the public submissions received and to the Department's queries regarding capacity of the current function centre and noise and lighting impacts of the proposed development. The Applicant clarified the DA maintains the approved maximum capacity of 300 patrons (DA 201-6-2002).

5. ASSESSMENT

5.1 Section 79C evaluation

Table 3 identifies the matters for consideration under section 79C of the EP&A Act that apply to the development. The table represents a summary for which additional information and consideration is provided for in further sections of the report and relevant appendices.

Table 3: Section 79C (1) Matters for Consideration

s. 79C(1) Evaluation	Consideration
(a)(i) any environmental planning instrument	Complies – see Section 3.5 and Appendix B
(a)(ii) any proposed instrument	Not applicable
(a)(iii) any development control plan	Complies – see Appendix B
(a)(iiia) any planning agreement	Not applicable

(a)(iv) the Regulations <i>Refer Division 8 of the EP&A Regulation</i>	Complies – see Section 3.8
(a)(v) any coastal zone management plan	Not applicable
(b) the likely impacts of that development	Given the minor nature of the external and internal works proposed, the Department considers the impacts of the development would be minor, if any. Key issues such as visual and noise impacts, illumination and heritage have been considered in more detail in Section 5 below.
(c) the suitability of the site for the development	Given the ongoing use of the site as a theme park and the nature of the proposed works, the Department considers the site is suitable for the internal and external works proposed to the existing building and function centre.
(d) any submissions	Three public submissions were received raising concerns about the noise that emanates from the current function centre during weeknights, Luna Park's failure to develop a park on the northern side of the site and the proposed works to the western façade. While the Minister is required to consider all submissions made, the issue regarding Luna Park's failure to develop a park on the northern side of the site is not relevant to the current application. The other submissions are considered in more detail below.
(e) the public interest.	The proposal is considered to improve the functionality of the site and Wild Mouse Building by updating the current function centre, internal kitchen area and the façade. The proposal would be beneficial to the overall business operations of Luna Park and the enjoyment of Luna Park by patrons. The proposal is therefore considered to be in the public interest.
Biodiversity values exempt if: (a) On biodiversity certified land? (b) Biobanking Statement exists?	Not applicable Not applicable

5.2 Key assessment issues

The Department has taken into account the development application, issues raised in submissions, and the Applicant's response to these in its assessment and considers the key issues relating to this application include:

- heritage
- visual impacts
- noise impacts
- illumination.

5.3 Heritage

The 'Luna Park Precinct' was placed on the NSW State Heritage Register in March 2010 and 'Luna Park' is also listed in Schedule 5 of the North Sydney LEP. The Statement of Significance for the Luna Park Precinct identifies the components of significance. The Wild Mouse Building is also located within the Sydney Opera House buffer zone under SREP 2005 which seeks to preserve the world heritage value of the Sydney Opera House.

The Wild Mouse ride is of heritage significance for being a rare timber roller coaster with a distinctive visual appearance (**Figure 5**). The Wild Mouse Building, beneath the ride, is not

identified as having any heritage significance. However, the Wild Mouse Building sits along the Midway, which is a recognised element of heritage significance within the NSW State Heritage Register listing. The Statement of Significance recognises the Midway as the 'central spine' following the shoreline and it is intended no attraction protrudes into the Midway, except for the Windmill (which is now the Lighthouse Building).



Figure 5: Image of existing Wild Mouse ride and eastern façade (Source: OEH)



Figure 6: Current view of eastern façade along the Midway toward entrance (Source: Department's photograph)

The Wild Mouse Building contains no significant fabric/features. The current decorative murals on the eastern façade (**Figure 5, 6 and 7**) are not original and do not date from a significant period in the history of the site. The current internal fabric and external façade do not retain any heritage significance apart from being consistent with the overall theme of the Luna Park Precinct in terms of colours, designs and decorations.

The Heritage Impact Assessment (HIA) submitted with the application concludes the proposed works would not have an adverse heritage impact on the heritage significance of the Luna Park Precinct or any individual elements of the site and are compatible with the heritage significance of Luna Park. The works would also not have any impacts on views to the Sydney Opera House.

The Department notes the nature of the works would make some changes to the façade and presentation of the building in terms of exposing more of the Wild Mouse rollercoaster ride and updating the colours and designs on each façade of the building. The internal changes would update the current function and kitchen areas. The changes to the façade are identified at **Figures 8 and 10**. However, no works will be undertaken or will affect the operation of the Wild Mouse ride.

The Department notes Property NSW has granted an exemption for the above works under section 57(2) of the *Heritage Act 1977*, and the Heritage Office had no further comments on the proposal.

The Department concludes the works to the Wild Mouse Building will complement the heritage significance of the Wild Mouse ride by updating and improving the visual amenity of the building. Due to the minor nature of the works proposed and because the Wild Mouse Building holds no heritage significance, the proposed works will not have an adverse heritage impact on the heritage significance of the Luna Park precinct, the individual heritage items within Luna Park or the SOH.



Figure 7: Current view of Fish n Sips café from the Midway (Source: Department's photograph)

5.4 Visual impacts

The proposal seeks approval to update the external façade of the Wild Mouse Building. The external works will be most visible from the Midway, Coney Island and the boardwalk and Sydney Harbour.

The design details, materials, colours and finishes on the eastern façade facing the Midway would be consistent and compatible with the architectural character of other structures along the Midway (see **Figure 8**). The new appearance of the northern façade facing Coney Island would be consistent with the character of Coney Island and the Crystal Palace with its red, blue and yellow colour and design scheme.

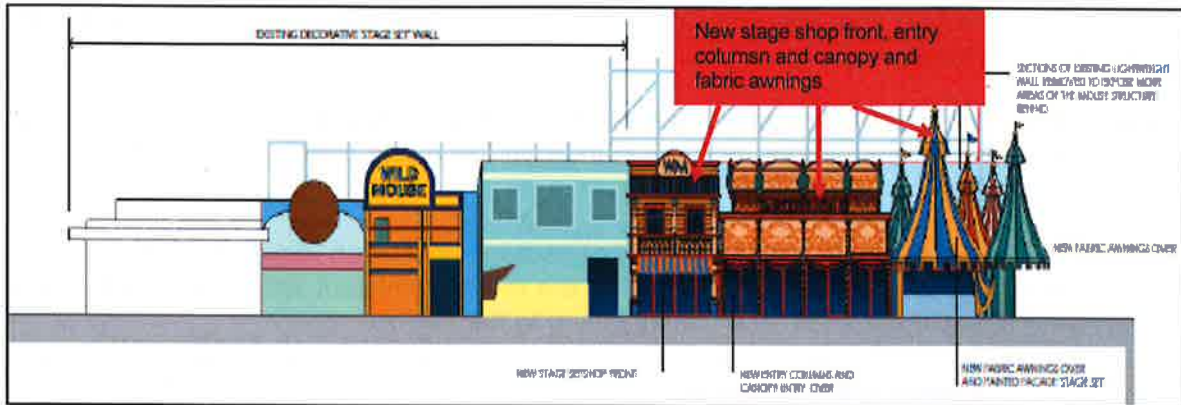


Figure 8: Proposed eastern façade (view is from the Midway) (Source: Applicant’s architectural drawings)



Figure 9: Current western façade (Source: Department’s photograph)

The Lavender Bay Precinct Committee raised the following issues relating to the proposed design of the western façade:

- whether the changes encroach on the boardwalk more than the present western façade
- whether the proposed colour scheme of the western façade breaches the original concept for the Wild Mouse building.

The architectural plans do not indicate an encroachment into the boardwalk any more than the current façade and will further open up the western façade by removing some lightweight walls and replacing the current concrete blades with louvres as shown in **Figure 10**.

The blue colour scheme currently used on the western façade is not original and does not date from a significant period in the history of the site (**Figure 9**). The 'stylised yellow cheese' façade referred to in the Lavender Bay Precinct Committee's submission is not included in Luna Park's Statement of Significance.

The Department considers the changes proposed to the western façade facing Sydney Harbour is more consistent with the character of Luna Park than the existing blue façade with grey and red triangles.

The changes would also provide a more visually consistent view when looking toward Luna Park from the Sydney Harbour by using colours which are more consistent with adjoining buildings, such as Crystal Palace to the south and Coney Island to the north.

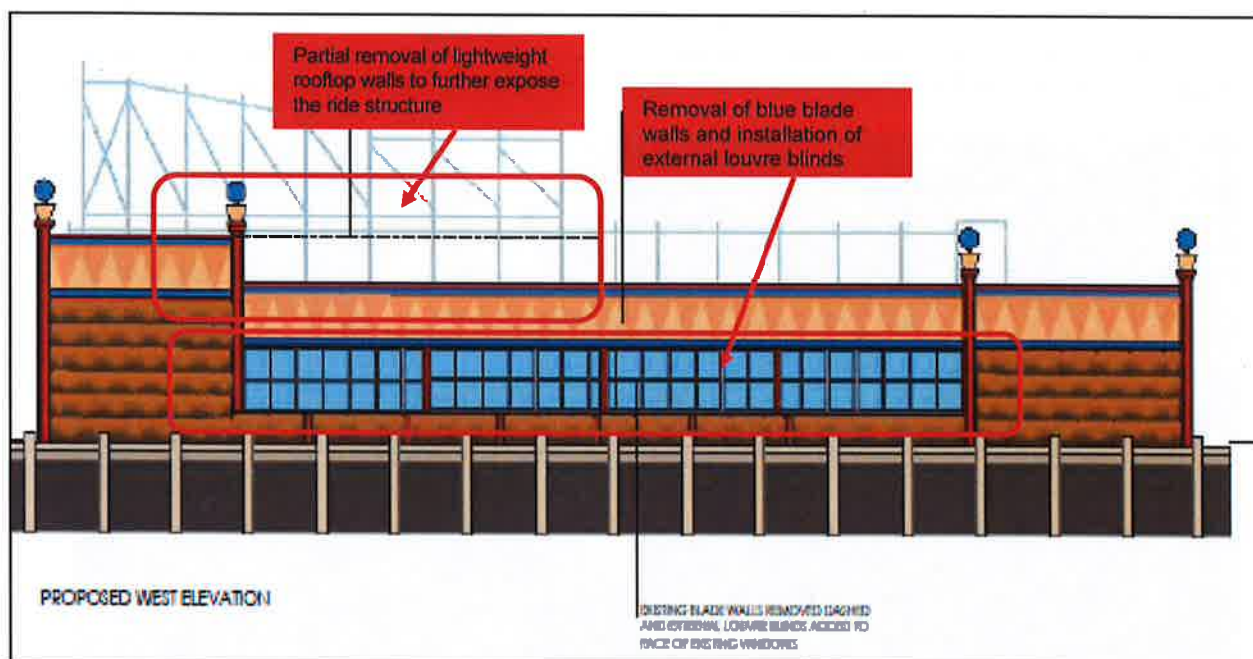


Figure 10: Proposed western façade (Source: Applicant's architectural drawings)

5.5 Noise impacts

The Department notes the application is not seeking any changes to the current capacity or hours of operation of the function centre than what has been approved under DA 154-06-01 and DA 201-6-2002. The Applicant is only proposing to upgrade the current function area beneath the Wild Mouse ride by updating the fitout and creating permanent and moveable furniture.

The Department also notes DA 154-06-01 and DA 201-6-2002 include a number of conditions relating to the management of noise impacts for the Wild Mouse Building. In particular, DA 201-6-2002 required compliance with an Acoustic Plan of Management. The Acoustic Plan of Management required assessment of noise generation and the implementation of noise control measures.

The Lavender Bay Precinct Committee raised the issue of whether removing part of the wall on the western façade would release more noise from the Wild Mouse ride (see **Figure 10**).

The Applicant advises the removal of part of the existing lightweight rooftop wall will have negligible implications on the Wild Mouse ride noise levels as the wall is decorative in nature and provides little acoustic absorption. The Department agrees the lightweight wall is a decorative feature. The removal of the wall would not give rise to additional noise impacts given the majority of the Wild Mouse ride already sits above the wall and the wall itself currently only extends partially across the western façade which faces over Lavender Bay.

A public submission also raised concerns about noise that may emanate from the Wild Mouse function centre toward surrounding residences. The submission stated that loud noise is caused during current functions held in the Wild Mouse Building from guests in the courtyard and this is a concern after 9 pm on weeknights. The Applicant states the current function area is underutilised and is used primarily for children's birthday parties and some small corporate events and the proposed works will upgrade and improve the functionality of the function centre.

The Department accepts the existing function centre use is already regulated by DA 154-06-01 and DA 201-6-2002 and considers noise impacts associated with upgraded function centre can be managed by way of conditions on patron capacity, hours of operation, allowable noise levels and complaints management consistent with existing consents, including:

- restricting hours of operation to 7 am to 1 am Monday to Sunday
- restricting LA₁₀, 1 hour noise level to below 60dB(A) at any time, measured from the nearest residential façade
- limiting patron capacity to 300 patrons
- ensuring its operation complies with the existing Acoustic Plan of Management.



Figure 11: Current function area (Source: Department's photograph)

5.6 Illumination

Small Light Emitting Diode (LED) lightbulbs are proposed to be located along the edges of all facades of the Wild Mouse Building as identified in **Figures 13, 14 and 15**. The existing lighting is minimal on the western façade, which faces Lavender Bay and the Sydney Opera House. The northern and eastern facades have small LED lighting around the edges of the decorative murals.

The Luna Park precinct already has substantial decorative lighting across many of the buildings and rides (see **Figure 12**). The proposed lighting is consistent with the type of lighting already present in Luna Park, i.e. small LED light bulbs. There are also a number of rides and buildings which sit higher than the Wild Mouse Building which have similar LED lighting (i.e. the Ferris Wheel and Coney Island entrance).

The HIA considers lighting impacts and concludes the feature lighting of Luna Park is integral to its amusement park character and contributes to Luna Park's identity as a major harbour icon. Moreover, the HIA concludes the proposed LED lighting on the Wild Mouse Building is consistent with the existing lighting and character of other rides and structures at Luna Park and supports Luna Park's on-going attraction as a harbourside amusement park.

The Department notes the existing lighting of Luna Park is managed under a Lighting Strategy approved under DA 201-6-2002. It is also noted *The Luna Park Plan of Management (Appendix B)* specifies a desired objective of the plan is to 'enhance the lighting of the park'. The Department considers the proposed lighting on the Wild Mouse Building meets this desired objective.

While the Wild Mouse sits on the foreshore of Sydney Harbour, the Department considers the lighting on the Wild Mouse Building would not create additional amenity impacts to key sites, such as Sydney Opera House and the Sydney Harbour Bridge. This is because of the significant amount of lighting already used at Luna Park and the minimal lighting proposed for the western façade of the Wild Mouse Building which faces these key sites (**Figures 14 and 15**).



Figure 12: Image of current Luna Park lighting at night (Source: Google Maps)

The Department concludes, as the proposed lighting is consistent with the desired outcomes for Luna Park, and because the Wild Mouse Building is set back from the residential apartments on the clifftop and on the foreshore of Lavender Bay, the proposed lighting would not result in unacceptable glare, amenity impacts or other safety/security concerns.

However, as a safeguard and for completeness, the Department recommends a new Lighting Strategy is prepared for the renovated Wild Mouse Building which is consistent with the existing Lighting Strategy for Luna Park and which would outline mitigation measures to control the effects of the lighting on the surrounding area.

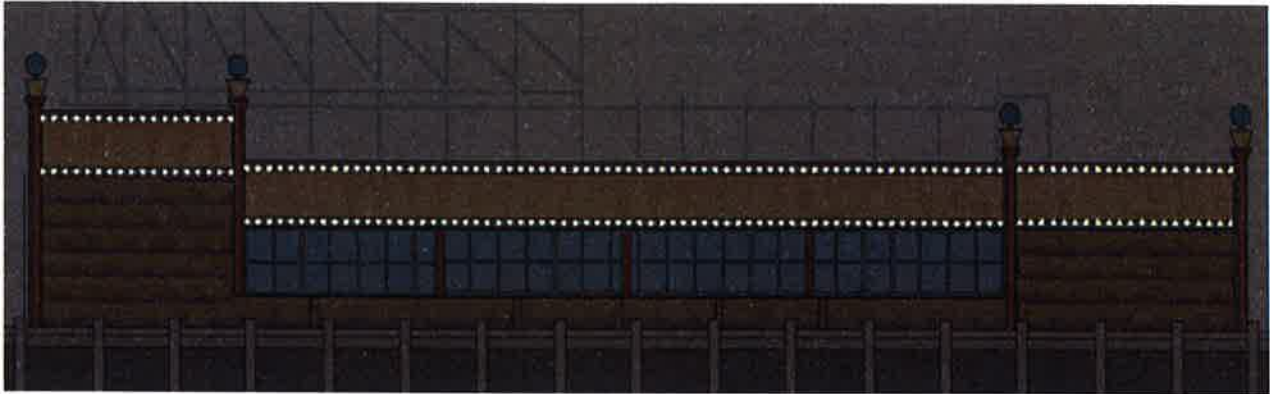


Figure 13: Lighting proposed for west elevation (Source: Applicant's architectural drawings)



Figure 14: Proposed lighting from east elevation (Source: Applicant's architectural drawings)



Figure 15: Proposed lighting from north elevation (looking from Coney Island entrance)
(Source: Applicant's architectural drawings)

6. CONCLUSION

The development application has been assessed in accordance with the matters for consideration under Part 4 of the EP&A Act, and all relevant environmental planning instruments and is considered to comply with all relevant standards and requirements.

No issues were raised by Council or the Heritage Division. The Department has carefully considered the heritage, visual, noise and illumination impacts associated with the development, and is satisfied these issues are minor and acceptable.

The Department has recommended a number of conditions to mitigate any impacts, including:

- limiting hours of operation to the previously approved hours of operation of 7 am to 1 am every day
- limiting patron capacity to the previously approved 300 patrons
- requiring a Lighting Strategy for the Wild Mouse Building be prepared to ensure the amenity of the surrounding area is maintained
- requiring the operation of the function centre to be consistent with the Acoustic Plan of Management.

The Department concludes that the application should be approved, subject to the conditions at **Appendix C**.

7. RECOMMENDATION

It is recommended that the Executive Director, Key Sites and Industry Assessments, as delegate of the Minister for Planning:

- a) **consider** all relevant matters prescribed in section 79(C) of the *Environmental Planning and Assessment Act 1979*, including the findings and recommendations of this report; and
- b) **approve** the development application, subject to conditions, under section 80(1)(a) of the *Environmental Planning and Assessment Act 1979*, having considered all relevant matters in accordance with (a) above, and **sign** the Development Consent at **Appendix C**.

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A/Planning Officer
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Endorsed by:



Cameron Sargent
Team Leader
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Endorsed by:



Ben Lusher
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APPENDIX A RELEVANT SUPPORTING INFORMATION

The following supporting documents and information to this assessment report can be found on the Department of Planning and Environment's website as follows:

- 1 Statement of Environmental Effects and Appendices

[https://majorprojects.affinitylive.com/resources/238303/Final%20SEE %20Carousel%20Ca fe %20301116.pdf](https://majorprojects.affinitylive.com/resources/238303/Final%20SEE%20Carousel%20Ca%20fe%20301116.pdf)

- 2 Submissions

http://majorprojects.planning.nsw.gov.au/?action=list_submissions&job_id=8240&title=EIS%20-%20Website%20Submissions&type=2

- 3 Applicant's Response to Submissions

https://majorprojects.accelo.com/public/747a2549bdd56a48b5ae2583d58b5b5c/2017-05-09%20DA8240_Revision%20to%20Wild%20Mouse%20Venue%20Capacity_8May17.pdf

APPENDIX B CONSIDERATION OF ENVIRONMENTAL PLANNING INSTRUMENT(S), DCPS AND ASSESSMENT GUIDELINES

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)

To satisfy the requirements of section 79C(a)(i) of the EP&A Act, this report includes references to the provisions of the EPIs that govern the carrying out of the development application and have been taken into consideration in the environmental assessment of the project.

Controls considered as part of the assessment of the proposal are:

- State Environmental Planning Policy (State Significant Precincts) 2005
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- North Sydney Local Environmental Plan 2013
- North Sydney Development Control Plan 2013
- State Environmental Planning Policy No. 64 – Advertising and Signage
- State Environmental Planning Policy No. 55 – Remediation of Land
- Luna Park Site Act 1990
- Luna Park Plan of Management 1998.

State Environmental Planning Policy (State Significant Precincts) 2005

Clause 5 of Schedule 6 of the SSP SEPP identifies that the Minister is the consent authority for development applications under Part 4 of the EP&A Act where the development has a capital investment value of not more than \$10 million within the area identified as the 'Luna Park Site' on Map 2 to Schedule 3 of the SSP SEPP. The development is located with the Luna Park Site and has a capital investment value of not more than \$10 million, and consequently the application is submitted for the approval of the Minister.

Additionally, Part 2 of Schedule 3 of the SSP SEPP provides a number of provisions relating to development on the Luna Park Site, however these provisions relate largely to 'the cliff top sites' which are located near the corner of Glen and Dind Street, and do not relate to the site of the Wild Mouse.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SREP)

The SREP applies to all land within the Sydney Harbour Catchment, as shown on the Sydney Harbour Catchment Map. The site of the Wild Mouse is within the defined Foreshores and Waterways Area, is identified as a Strategic Foreshore Site (Sheet 9 of the Strategic Foreshore Sites Map) and is also within the Sydney Opera House buffer zone.

Matters for Consideration

Clause 20 of the SREP identifies that the following matters are required to be considered by consent authorities before granting consent to development under Part 4 of the EP&A Act:

- clause 21 - Biodiversity, ecology and environmental protection
- clause 22 - Public access to, and use of, foreshores and waterways
- clause 23 - Maintenance of a working harbour
- clause 24 - Interrelationship of waterway and foreshore uses
- clause 25 - Foreshore and waterways scenic quality
- clause 26 - Maintenance, protection and enhancement of views
- clause 27 - Boat storage facilities.

The development is consistent with the relevant matters for consideration as it will maintain public access to and along the foreshore and will maintain the unique scenic and visual quality of qualities of Sydney Harbour and its islands, foreshores and tributaries.

The height and bulk of the existing building will remain so the proposed development will maintain views to and from Sydney Harbour and will maintain the scenic quality of foreshores and waterways.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SREP)

Foreshores and Waterways Planning and Development Advisory Committee

The proposal is not of a type referred to in Schedule 2 of the SREP and therefore no referral to the Committee was required under clause 29 of the SREP. The proposal includes consent for a 'business identification sign' which is not an 'advertisement' or 'advertising structure' (clause 4 SEPP 64).

Strategic Foreshore Sites

The site is identified as a 'Strategic Foreshore Site' on 'Sheet 9 Luna Park' of the Strategic Foreshore Sites Map. Clause 41 of the SREP states that development consent must not be granted for the carrying out of development on a strategic foreshore site unless there is a master plan for the site, and the consent authority has taken the master plan into consideration.

On 31 January 2002, the then Minister for Urban Affairs and Planning approved a staged development application (DA154-06-01) for the redevelopment of Luna Park. The approved development included building envelopes, land uses and general master-planning of the site.

The Department considers the proposal is consistent with the relevant land use and the general master planning provisions for the site. In respect of the building envelope provisions, we note that any extension to the height of buildings is by way of decorative details only, including architectural decoration.

Heritage and other provisions

The site is not identified as a heritage item in Schedule 4 of SREP. However, the site is located within the 'Sydney Opera House Buffer Zone' on the Sydney Opera House Buffer Zone map, and clause 58B identifies the matters to be taken into consideration in relation to development within the Sydney Opera House buffer zone.

The site is located at the northern extent of the buffer zone and views between the Wild Mouse Building along the Midway and the Sydney Opera House are largely obscured by the Sydney Harbour Bridge and other Luna Park rides and buildings.

The Wild Mouse Building is considered to be consistent with the overall visual appearance of Luna Park, and does not result in any significant change to views to/from the Opera House. Accordingly, the proposal results in a negligible impact on the world heritage value of the Sydney Opera House, and does not result in any significant impacts to views and vistas between the Sydney Opera House and other public places within the buffer zone that contribute to its world heritage value.

State Environmental Planning Policy No. 55 – Remediation of Land

Clause 7 of SEPP 55 requires the consent authority consider whether land is contaminated prior to granting consent to the carrying out of any development on that land, and to be satisfied that the land is suitable for the proposed use.

The application seeks approval external and internal works to the Wild Mouse Building, which constitutes a continuation of the existing use of the land for Luna Park. No works are proposed that would significantly affect the ground level or soil of the site and therefore no further assessment of contamination is required.

Sydney Harbour Foreshores and Waterway Area DCP 2005

The site is within the defined Foreshores and Waterways Area, and is therefore subject to the controls in the DCP. The DCP includes aims and performance criteria in relation to ecological assessment, landscape assessment, and design guidelines for development within the area.

The location of the site is not affected by any ecological or specific landscape character area, and as the development is contained within the Luna Park site which is separated from the water's edge by the public foreshore boardwalk, the design guidelines provisions are not relevant to this application.

North Sydney Local Environmental Plan 2013

The site is zoned SP1 Special Activities 'Luna Park' under the North Sydney LEP. The SP1 zone permits (with consent) roads, and development for the purpose of Luna Park, including any development that is

ordinarily incidental or ancillary to development for that purpose. Additionally, clause 6.19 of North Sydney LEP identifies that development that is a land use authorised under the *Luna Park Site Act 1990* may be carried out with development consent on land comprising the Luna Park site. Section 6B of that Act a number of authorised uses, including restaurants and cafes and such other uses related to the provision of entertainment as declared by the Regulation.

The proposal is therefore permissible with consent having regard to the provisions of North Sydney LEP. The site is not subject to any FSR, maximum building height, or lot size provisions, however the Luna Park site is identified as a Heritage Item on the North Sydney LEP Heritage Map and in Schedule 5 of the LEP.

Detailed consideration of heritage impacts is provided in **Section 5.3** of this report, and on the basis of this assessment, the Department is satisfied that the proposed development would not result in any significant impacts to the heritage significance of Luna Park.

North Sydney Development Control Plan 2013

The site is located within the Lavender Bay Planning Area. The character statement for the Lavender Bay Planning Area includes a section on the 'Luna Park Neighbourhood' which provides an outline of the significant elements of Luna Park, the desired future character and the desired built form.

The proposal is consistent with the desired future character of the area which includes amusements, recreational facilities and take-away food shops. The proposal would not impede the 'Midway' pedestrian street which provides access to recreational facilities, and it is generally consistent with all other provisions for the 'Luna Park Neighbourhood' (which are largely based on the design and land use guidelines in Luna Park Plan of Management 1998).

Additionally, as Luna Park is identified as a heritage item in the North Sydney LEP, the heritage provisions of North Sydney DCP also apply to the proposal. Detailed consideration of heritage impacts is provided in **Section 5.3** of this report, and on the basis of this assessment, the Department is satisfied the proposed development would not result in any significant impacts to the heritage significance of Luna Park.

Luna Park Site Act 1990

The object of the *Luna Park Site Act 1990* (LP Act) is to return the Luna Park site to the people of New South Wales and to ensure that Luna Park and the associated harbour foreshore remain available and accessible for the enjoyment of the people of New South Wales.

The LP Act establishes the Luna Park Reserve Trust as trustee of the site and requires the preparation of a plan of management (also required under the *Crown Lands Act 1989*).

Luna Park Plan of Management 1998

The *Luna Park Plan of Management 1998* (Plan of Management) (required under the LP Act) is a largely strategic document establishing the direction for Luna Park through a framework of a vision statement, goals and design and land use guidelines. The vision statement for Luna Park is to operate a viable and successful amusement park which remains as public land and conserves the site's special identity and heritage features, while providing a wide range of entertainment and social facilities for the people of Sydney and its visitors.

The Plan of Management also includes goals for the amusement area which are to:

- re-open the Park and successfully operate amusement activities
- widen the range of services and facilities while maintaining the identity and character of Luna Park – new uses may include restaurants, functions, exhibitions, conventions, markets, theatres, meeting places and entertainment venues
- protect and manage features of heritage significance
- ensure any potentially adverse impacts on surrounding areas meet regulatory requirements
- provide for multiple use of facilities, so the community benefits as much as possible
- ensure suitable public facilities are provided such as shelter, landscaping and seating in the amusement park.

The Plan of Management also includes design and land use guidelines which set the framework for achieving the vision and goals for Luna Park. The Department has undertaken an assessment of the proposal against the vision statement, goals and design and land use guidelines in **Appendix B** of this report.

The Department is satisfied the proposed development is generally consistent with the relevant provisions of the Plan of Management and will allow the goals identified in the Plan of management to be achieved.			
The relevant design and land use guidelines in the Plan of Management are considered below.			
1.0 Heritage Objective	Relevant Design Guidelines	Compliance	Comment
To protect and maintain heritage features on the site and features listed on National Trust register.	- The Wild Mouse ride is to be retained	✓	- The proposed works do not impact on any heritage features of the Wild Mouse ride.
2.0 Public Domain Objective	Relevant Design Guidelines	Compliance	Comment
To retain the existing primary spaces which structure the site, with the opportunity for access via new entrances.	- Retain the boardwalk along the harbour foreshore for 24-hr public access - Retain the Midway pedestrian street and out of hours service access route through the centre of the site	✓ ✓	- The Wild Mouse building is located within the Luna Park site. The changes to the western façade will retain the boardwalk and improve the visual amenity of the western façade. - The building is located along the Midway and retains the Midway pedestrian street through the centre of the site.
3.0 Views and Vistas Objective	Relevant Design Guidelines	Compliance	Comment
To retain important existing views and vistas.	Retain views and vistas: - towards the Opera House through the face - along the Midway from Crystal Palace to Coney Island - towards the harbour from the Midway, on either side of Crystal Palace.	✓ ✓	- The building is located along the Midway, with Coney Island and Tumblebug to the north and Crystal Palace, the boardwalk and Sydney Harbour to the west (see Figure 2) - The building retains the views/vistas towards the Opera House through the face, along the Midway from Crystal Palace to Coney Island, and towards the harbour from the Midway, on either side of Crystal Palace
5.0 Building Envelopes Objective	Relevant Design Guidelines	Compliance	Comment
To provide future development sites which complement the existing heritage features, public domain, views, vistas and service requirements. Building envelopes are contained within the framework set by the heritage features, public domain, views, vistas and service area requirements.	- New buildings shall be designed within the proposed building envelopes. Minor decorative details only such as flagpoles and architectural decoration may exceed the building height envelope.	✓	- No new building is proposed. The proposed works make no changes to building height.
To maintain Crystal Palace and Coney Island as the preeminent	- No new building should have a ground floor area greater than the ground	✓	- No new building is proposed. The proposed works make no changes to building height.

<p>buildings on site, and to maintain a built form characterised by a varied compilation of individual buildings or rides, rather than a continuous built edge.</p> <p>To establish the Wild Mouse as the tallest possible structure on the water's edge, and to retain the cliff to as the maximum height of buildings in the amusement area.</p> <p>To reinforce the existing character of Luna Park in any future development.</p>	<p>floor area of Coney Island. The maximum height for each site is specified in Figure E. Links, such as walkways between individual buildings are however permitted. Any building should occupy no greater than 50% of the volume defined by the boundaries of the building envelopes. Amusement rides may occupy 100% of the envelope, if these rides are 'open' structures.</p> <ul style="list-style-type: none"> - No building is to exceed the height of the building envelopes indicated in Figure E, these heights reflecting the variable height of the cliff face. Minor decorative elements may exceed the building height envelope. - Any new buildings are to complement the architectural character of the existing buildings within Luna Park, with regard to design details, architectural materials, colours and finishes. 	<p>✓</p> <p>✓</p>	
6.0 Design of Public Spaces Objective	Relevant Design Guidelines	Compliance	Comment
<p>To enhance the existing public domain and to improve the relationship between the public spaces, rides and new buildings.</p> <p>To enhance lighting of the park.</p>	<ul style="list-style-type: none"> - Shelters against hot and inclement weather, kiosks and market stalls as well as additional street furniture such as seating and garbage bins may be provided in the Midway. - Luna Park currently has a high level of decorative lighting which should be enhanced. 	<p>✓</p> <p>✓</p>	<ul style="list-style-type: none"> - The proposed changes to the existing café faces the Midway and Coney Island and will enhance the existing public domain and improve the relationship between the Wild Mouse building and the Midway - The alterations to the building will improve visual interest and activation to the Midway, including additional decorative lighting. - The proposal includes additional decorative lighting and a new illuminated business identification sign.
7.0 Land Uses Objective	Relevant Design Guidelines	Compliance	Comment
<p>To obtain an appropriate mix of uses to assure the ongoing viability of the site.</p> <p>To allow for the re-use of existing rides and the</p>	<ul style="list-style-type: none"> - Land uses must comply with the <i>Luna Park Site Amendment Act 1997</i> <p>N/A</p>	<p>✓</p> <p>N/A</p>	<ul style="list-style-type: none"> - The proposal is for alterations to an existing building which is, and will continue to be, used for the purposes of a café and function area.

possibility of future fun park rides which do not impinge upon the environmental amenity of the area To encourage the interpretation of Luna Park's history to complement its current rides.	N/A	N/A	- The proposal does not affect the use of the current Wild Mouse ride. - The proposal is for alterations to an existing building and does not relate to a 'ride'.
8.0 Environmental Issues Objective	Relevant Design Guidelines	Compliance	Comment
To ensure that the standards of the EPA are satisfied with regard to noise, and other potential environmental issues.	- The appropriate standards will be established by the regulatory authorities.	✓	- Noise impacts are considered in Section 5.5 .

State Environmental Planning Policy No.64 – Advertising and Signage

SEPP 64 applies to all signage that under an EPI can be displayed with or without development consent and is visible from any public place or public reserve.

The signage proposed will feature the name of the shop, 'Carousal Café'. The proposed signage is properly characterised as 'business identification sign' under SEPP 64, as the signs identify the café premises rather than advertising a product unrelated to the premises.

Accordingly the controls in Part 3 of SEPP 64 do not apply to any of the proposed signs, and pursuant to clause 8 of SEPP 64 only the objectives of SEPP 64 and the criteria in Schedule 1 – Assessment Criteria of SEPP 64 are required to be considered in the assessment of this Development Application.

Table 5 below demonstrates the consistency of the proposed signage with these assessment criteria.

Clause 14 of SEPP 64 specifies that a consent granted under SEPP 64 can have a maximum duration of 15 years. The Department has recommended a condition that limits the consent to remain in force for a maximum period of 15 years from the date of determination.

Clause 20 of SEPP 64 requires that the name or logo of the person who owns or leases an advertisement or advertising structure may appear only within the advertising display area. The proposal includes a logo sign within the advertising structure, which is considered acceptable.

Table 5: SEPP 64 compliance table

Design Criteria	Comments	Compliance
Aims, objectives etc.		
Ensure that signage (including advertising):	<ul style="list-style-type: none"> - The proposed signage is compatible with the desired amenity and visual character of the area, having regard to the level of existing lighting and signage at Luna Park and the use of the site as an existing building within a theme park. - The purpose of the proposed signage is to identify the Carousal Café premises to patrons of Luna Park. The Department considers the signs to be in suitable locations. - The architectural drawings illustrate the proposed design of the signs. The Department considers the designs to be of a high quality and finish. 	✓
- is compatible with the desired amenity and visual character of an area		✓
- provides effective communication in suitable locations		✓
- is of high quality design and finish		
1. Character of the area		

Design Criteria	Comments	Compliance
Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	<ul style="list-style-type: none"> - The proposed signs are compatible with the existing future character of the area of Luna Park, having regard to their design, colour and lighting. - The conditions require the proposal to be consistent with the wider Lighting Strategy for Luna Park. 	✓
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	<ul style="list-style-type: none"> - The proposed signs are compatible with the theme of outdoor advertising at Luna Park, having regard to their design, colour and lighting. 	✓
2. Special areas		
Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	<ul style="list-style-type: none"> - The proposed signs do not detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas of the surrounding. 	✓
3. Views and vistas		
Does the proposal: <ul style="list-style-type: none"> - obscure or compromise important views? - dominate the skyline and reduce the quality of vistas? - respect the viewing rights of other advertisers? 	<ul style="list-style-type: none"> - The proposed signs do not obscure/compromise important views, having regard to their location and size. - The proposed signs do not dominate the skyline or reduce the quality of vistas, having regard to their location and size. - The proposed signs respect the viewing rights of other advertisers, having regard to their location and size. 	<ul style="list-style-type: none"> ✓ ✓ ✓
4. Streetscape, setting or landscape		
Does the proposal: <ul style="list-style-type: none"> - provide an acceptable scale, proportion and form, appropriate for the streetscape, setting or landscape? - contribute to the visual interest of the streetscape, setting or landscape? - reduce clutter by rationalising and simplifying existing advertising? - screen unsightliness? - protrude above buildings, structures or tree canopies in the area or locality? - require ongoing vegetation management? 	<ul style="list-style-type: none"> - Given the size, design and location of the signs, the proposal satisfies all criteria within clause 4. Streetscape, setting or landscape. 	✓
5. Site and Building		
<ul style="list-style-type: none"> - Is the proposal compatible with the scale, proportion and 	<ul style="list-style-type: none"> - The proposed signs are compatible with the scale, proportion and other characteristics of the site or building. 	✓

Design Criteria	Comments	Compliance
<p>other characteristics of the site or building, or both, on which the proposed signage is to be located?</p> <p>- Does the proposal respect important features of the site or building, or both?</p> <p>- Does the proposal show innovation and imagination in its relationship to the site or building, or both?</p>	<p>- The proposed signs respect the important features of the site, including the surrounding heritage items, and of the existing building.</p> <p>- The proposed signs show imagination in the use of colour and design in relation to the site and the building.</p>	<p>✓</p> <p>✓</p>
6. Associated devices and logos		
Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	- The proposed signs include LED lighting features	✓
7. Illumination		
<p>Would illumination:</p> <p>- result in unacceptable glare?</p> <p>- affect safety for pedestrians, vehicles or aircraft?</p> <p>- detract from the amenity of any residence or other form of accommodation?</p>	<p>- The proposed lighting of the signs is consistent with the lighting already within Luna Park and therefore would not result in unacceptable glare.</p> <p>- The proposed lighting of the signs is consistent with the lighting already within Luna Park and will therefore not affect the safety of pedestrians/vehicles/aircraft.</p> <p>- Given the location and design of the proposed signs, the signs would not detract from the amenity of any residence or other form of accommodation.</p>	<p>✓</p> <p>✓</p> <p>✓</p>
Can the intensity of the illumination be adjusted, if necessary and is the illumination subject to a curfew?	- The proposal is required to comply with a Lighting Strategy for the Wild Mouse Building. The Lighting Strategy will have to outline illumination levels and curfews.	✓
8. Road Safety		
<p>Would the proposal reduce safety for:</p> <p>- pedestrians, particularly children, by obscuring sightlines from public areas?</p> <p>- any public road?</p>	<p>- No</p> <p>- No.</p>	<p>✓</p> <p>✓</p>

APPENDIX C RECOMMENDED CONDITIONS OF CONSENT