

Development consent

Section 80(1)(a) of the *Environmental Planning and Assessment Act 1979*

As delegate of the Minister for Planning, under delegation dated 16 February 2015, I grant consent to the development application referred to in Schedule 1, subject to the conditions in Schedule 2.

These conditions are required to:

- prevent, minimise, and/or offset adverse environmental impacts including economic and social impacts;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring and reporting; and
- provide for the ongoing environmental management of the development.

Anthea Sargeant
Acting Executive Director
Regions

Sydney

2017

SCHEDULE 1

Application No.:

DA 8240

Applicant:

Luna Park Sydney Pty Ltd

Consent Authority:

Minister for Planning

Land:

Part of Lot 4 DP 1066900

Development:

Internal and external works to an existing building known as the Wild Mouse Building at Luna Park, including:

- 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 lightweight rooftop walls to further expose the structure of the Wild Mouse ride;
- installation of new fabric awnings, entry columns and canopies; and
- installation of illuminated business identification sign.

DEFINITIONS

Advisory Notes	Advisory information relating to the consent but do not form part of this consent
Applicant	Luna Park Sydney Pty Ltd
Application	The development application and the accompanying drawings plans and documentation described in Condition A1.
BCA	Building Code of Australia
Construction	The demolition of buildings or works, the carrying out of works, including bulk earthworks, and erection of buildings and other infrastructure permitted by this consent
Certifying Authority	Professionals that are accredited by the Building Professionals Board to issue construction, occupation, subdivision, strata, compliance and complying development certificates under the EP&A Act, <i>Strata Schemes (Freehold Development) Act 1973</i> and <i>Strata Schemes (Leasehold Development) Act 1986</i> or in the case of Crown development, a person qualified to conduct a Certification of Crown Building works
Council	North Sydney Council
Date of Consent	The date the consent was signed by the Minister for Planning (or delegate)
Day	The period from 7am to 6pm on Monday to Saturday, and 8am to 6pm on Sundays and Public Holidays
Department	Department of Planning and Environment or its successors
Draft Guidelines	<i>Draft Transport Corridor Outdoor Advertising and Signage Guidelines</i> , dated December 2015
Evening	The period from 6pm to 10pm
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
Heritage Division	Heritage Division of OEH
Heritage item	An item as defined under the Heritage Act 1977 and/or an Aboriginal Object or Aboriginal Place as defined under the National Parks and Wildlife Act 1974
Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
Incident	A set of circumstances that causes or threatens to cause material harm to the environment, and/or breaches or exceeds the limits or performance measures/criteria in this approval
Minister	Minister for Planning and Environment, or nominee
Night time	The period from 10pm to 7am on Monday to Saturday, and 10pm to 8am on Sundays and Public Holidays
PCA	Principal Certifying Authority, or in the case of Crown development, a person qualified to conduct a Certification of Crown Building works
Residence	For the purposes of this instrument, a residence includes existing or approved dwellings or buildings at the date of this consent, including those offering overnight accommodation
Secretary	Secretary of the Department of Planning and Environment
Secretary's approval, agreement or satisfaction	A written approval from the Secretary (or nominee/delegate)
Sensitive receiver	Residence, education institution (e.g. school, university, TAFE college), health care facility (e.g. nursing home, hospital), religious facility (e.g. church) and children's day care facility.
Subject Site	The site as described in Schedule 1.
TfNSW	Transport for NSW

SCHEDULE 2

PART A - ADMINISTRATIVE CONDITIONS

TERMS OF CONSENT

- A1 The Applicant, in acting on this consent, must carry out the development:
- a) generally in accordance with development application DA 8240 submitted by the Applicant on 3 February 2017;
 - b) generally in accordance with the Statement of Environmental Effects, including appendices, prepared by JBA Urban Planning Consultants Pty Ltd dated 30 November 2016;
 - c) generally in accordance with the Response to Submissions letter by JBA Urban Planning Consultants Pty Ltd dated 11 April and 8 May 2017;
 - d) in compliance with the conditions of this consent; and
 - e) the following drawings:

Plans prepared by In+Out Pty Ltd		
Drawing No.	Name of Plan	Date
DA00	Title Page and Location Plan	7 November 2016
DA01	Existing Ground Floor Plan	7 November 2016
DA02	Proposed Ground Floor Plan and Wild Mouse Level	7 November 2016
DA03	Sections S1, S2 and S3	7 October 2016
DA04	Existing and Proposed Elevation West	7 November 2016
DA05	Proposed Elevations East and North	7 November 2016
DA06	Façade Lighting Elevation West	7 November 2016
DA07	Façade Lighting East and Norther	7 November 2016

INCONSISTENCY BETWEEN DOCUMENTS

- A2 If there is any inconsistency between the documents in Condition A1, the most recent document shall prevail to the extent of the inconsistency. However, conditions of this consent prevail to the extent of any inconsistency.

LIMITS ON CONSENT

- A3 This consent will lapse five years from the date of consent unless the building works associated with the development have physically commenced.

DEVELOPMENT EXPENSES

- A4 It is the responsibility of the Applicant to meet all expenses incurred in undertaking the development, including expenses incurred in complying with conditions imposed under this consent.

PRESCRIBED CONDITIONS

- A5 The Applicant shall comply with all relevant prescribed conditions of development consent under Part 6, Division 8A of the EP&A Regulation.

LEGAL NOTICES

A6 Any advice or notice to the consent authority shall be served on the Secretary.

LONG SERVICE LEVY

A7 For work costing \$25,000 or more, a Long Service Leave Levy shall be paid. For further information please contact the Long Service Payments Corporation on their Helpline 13 1441.

END OF PART A

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PART B – PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

LIGHTING STRATEGY

B1 A Lighting Strategy must be prepared for the Wild Mouse Building and must outline the following:

- a) potential lighting issues;
- b) methods and treatment of fixing luminaires;
- c) proposed hours of illumination;
- d) objectives to mitigate and manage lighting impacts;
- e) design solutions and controls; and
- f) complaints procedures.

The Lighting Strategy must be consistent with the Lighting Strategy prepared by Adamus Consulting dated 28 May 2002, and all relevant Australian Standards, in particular, AS/NZS 1158.3.1.1999 "*Pedestrian Area (Category P) Lighting - Performance and Installation Design Requirements*" and AS4282 "*Control of obtrusive effects of Outdoor Lighting*".

A copy of the Lighting Strategy must be submitted to and approved by the Secretary prior to the issue of any Construction Certificate.

PAYMENT OF LEVY FEE

B2 Payment of the prescribed Long Service Levy Fee is to be made to Council prior to commencement of above ground works.

BUILDING CODE OF AUSTRALIA COMPLIANCE

B3 The proposed works shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the ongoing benefit of the community. Compliance with the performance requirements can only be achieved by:

- a) complying with the deemed to satisfy provisions; or
- b) formulating an alternative solution which:
 - i) complies with the performance requirements; or
 - ii) is shown to be at least equivalent to the deemed to satisfy provision; or
 - iii) a combination of a) and b).

CONSTRUCTION AND FITOUT OF FOOD PREMISES

B4 The construction, fitout and finishes of the food premises must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code under the *Food Act 2003* all relevant Australian Standards and the provisions of the BCA. Details of compliance with the relevant provisions shall be prepared by a suitably qualified person and submitted to the satisfaction of the Certifying Authority prior to the issue of the relevant Construction Certificate relating to the fitout works.

STORAGE AND HANDLING OF WASTE

B5 The building plans and specifications accompanying the relevant Construction Certificate must demonstrate that an appropriate area will be provided within the premises for the storage of garbage bins and recycling containers and all waste and

recyclable material generated by this premises. Requirements of North Sydney Council must be met to the satisfaction of Council.

GREASE TRAPS

- B6 A grease trap (if required by Sydney Water) must not be installed in any kitchen, food preparation or food storage area. The grease trap room must have a piped connection to the basement waste collection area so that it can be emptied.

Note: Sydney Water also have requirements for grease arrestors that you need to comply with.

MECHANICAL VENTILATION

B7

- a) The premises must be ventilated in accordance with the BCA and AS1668.1 and AS1668.2.
- b) All kitchen exhaust systems intended to be used for solid fuel or charcoal cooking are to be designed installed and maintained in accordance with AS1668.2 Section 3.4.6. All hoods and associated exhaust systems for use over charcoal and solid fuel appliances shall be provided with separate systems, and shall not be combined with a system serving grease or oil generating or oil heating appliances.
- c) All solid fuel or charcoal cooking appliance exhaust systems are to be provided with an enhanced filtration system so as to prevent any cooking odour, smoke or fumes adversely affecting customers or any adjacent or nearby residents, businesses or the general public.
- d) The kitchen exhaust systems, including enhanced filtration systems shall be installed in accordance with the manufacturers' specifications by appropriately qualified person(s) conversant with the installation and operation of the system.
- e) Only appropriately qualified person(s) conversant with the operation of the approved kitchen exhaust mechanical ventilation system be engaged to conduct servicing and maintenance of the systems.
- f) The systems shall be maintained in accordance with the manufacturers' recommendations with regard to the systems' particular application and cooking usage and based on the implementation of these recommendations. **A Maintenance Management Plan** shall be prepared which is to be endorsed by the manufacturer.
- g) Following the endorsement of the **Maintenance Management Plan**, the systems are to be maintained in accordance with the specific requirements of the MMP.
- h) The Maintenance Management Plan and all service records are to be kept on-site and made available to North Sydney officers upon request.
- i) Details of any mechanical ventilation and/or air conditioning system complying with AS1668.1 and AS1668.2, the *Building Code of Australia* and relevant Australian Standards must be prepared by a suitably qualified person certified and certified in accordance with Clause A2.2(a)(iii) of the *Building Code of Australia*, to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

INTERLOCKS – MECHANICAL VENTILATION

- B8 Interlocks shall be installed to the kitchen mechanical ventilation system to ensure that the system is not operated unless the filters are correctly installed and enhanced filtration and odour systems are fully functional and operational.

CONSTRUCTION MANAGEMENT PLAN

B9 Prior to the commencement of works, a **Construction Management Plan** (CMP) shall be prepared and submitted to the Certifying Authority. The CMP shall address, but not be limited to, the following matters where relevant:

- a) environmental and safety risk assessment;
- b) hours of work (to ensure minimal disruption of any surrounding residential amenity and traffic operation);
- c) contact details of site manager;
- d) safety, including preparation of a safe work method statement;
- e) traffic management, including details of the location of any site compound, haulage routes and parking for vehicles associated with the construction (i.e. parked vehicles shall not impede the movement of traffic or pedestrians in and around the site);
- f) noise management including all reasonable and feasible noise mitigation measures to be implemented with the aim of achieving the construction noise management levels detailed in the *Interim Construction Noise Guideline* (Department of Environment and Climate Change, 2009); and
- g) waste management, including an appropriate area provided within the premises for the storage of garbage bins and recycling containers and all waste and recyclable material generated by the works.

The CMP must not include works that have not been explicitly approved in the development consent. In the event of any inconsistency between the consent and the CMP, the consent shall prevail.

CONTACT TELEPHONE NUMBER

B10 Prior to the commencement of the works, the Applicant shall forward to the Council a 24-hour telephone number to be operated for the duration of the construction works.

COMPLIANCE REPORT

B11 Prior to the issue of each Construction Certificate, the Applicant, or any party acting upon this consent, shall submit to the PCA and Department a report addressing compliance with all relevant conditions of this Part.

END OF PART B

PART C – PRIOR TO THE COMMENCEMENT OF WORKS

NOTICE OF COMMENCEMENT OF WORKS

- C1 The Certifying Authority, Department and Council shall be given written notice, at least 48 hours prior to the commencement of building works on the Subject Site.

SITE NOTICE

- C2 A site notice(s) shall be prominently displayed at the boundaries of the Subject Site prior to the commencement of works for the purposes of informing the public of project details including, but not limited to the details of the Builder, PCA and Structural Engineer.
- C3 The notice(s) is to satisfy all but not be limited to, the following requirements:
- a) The notice is to be able to be read by the general public;
 - b) The notice is to be durable and weatherproof and is to be displayed throughout the works period;
 - c) The approved hours of work, the name of the site/project manager, the responsible managing company (if any), its address and 24-hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice; and
 - d) The notice(s) is to be mounted at eye level on the perimeter hoardings/fencing and is to state that unauthorised entry to the Site is not permitted.

COMPLIANCE REPORT

- C4 Prior to the commencement of works, the Applicant, or any party acting upon this consent, shall submit to the PCA, a report addressing compliance with all relevant conditions of this Part.

END OF PART C

PART D – DURING CONSTRUCTION

HOURS OF WORK

- D1 The hours of construction, including the delivery of materials to and from the Subject Site, shall be restricted as follows:
- a) between 7:00 am and 6:00 pm, Mondays to Fridays inclusive;
 - b) between 8:00 am and 3.30 pm, Saturdays;
 - c) no work on Sundays and public holidays;
 - d) works may be undertaken outside these hours where:
 - i) the delivery of vehicles, plant or materials is required outside these hours by the Police or other public authorities; or
 - ii) it is required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm.

WORKS IN ACCORDANCE WITH PLANS

- D2 The Applicant must undertake all works in accordance with the Construction Management Plan approved under Condition B9.

DISPOSAL OF SEEPAGE AND STORMWATER

- D3 Any seepage or rainwater collected on-site during construction, must be either re-used or disposed of, so as not to cause pollution. Seepage or rainwater shall not be pumped to the street stormwater system unless separate prior approval is given in writing by Council.

PROTECTION OF TREES

- D4 No street trees are to be trimmed or removed unless it forms a part of this development consent or prior written approval from Council is obtained or is required in an emergency to avoid the loss of life or damage to property.

CONSTRUCTION NOISE

- D5 Any construction noise generated during the construction of the development must not be offensive noise within the meaning of the *Protection of the Environment Operations Act 1997*.

WORK COVER REQUIREMENTS

- D6 To protect the safety of work personnel and the public, the work site shall be adequately secured to prevent access by unauthorised personnel, and work shall be conducted at all times in accordance with relevant Work Cover requirements.

NO OBSTRUCTION OF THE PUBLIC WAY

- D7 The public way (outside of any construction works zone) must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances. Non-compliance with this requirement will result in the issue of a notice by the relevant Authority to stop all work on site.

APPROVED PLANS TO BE ON SITE

C5 A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the subject site at all times and shall be readily available for perusal by any officer of the Department, Council or the PCA.

END OF PART D

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PART E – PRIOR TO OCCUPATION OR COMMENCEMENT OF USE

OCCUPATION CERTIFICATE

- E1 An **Occupation Certificate** must be obtained from the PCA prior to commencement of occupation or use of the whole or any part of a new building, an altered portion of, or an extension to an existing building.

FIRE SAFETY CERTIFICATION

- E2 Prior to the use of the Wild Mouse Building, a **Fire Safety Certificate** shall be obtained for all the Essential Fire or Other Safety Measures forming part of this consent. A copy of the Fire Safety Certificate must be submitted to the relevant authority and be prominently displayed in the building.

STRUCTURAL INSPECTION CERTIFICATE

- E3 A **Structural Inspection Certificate** must be submitted to the satisfaction of the Certifying Authority prior to the use of the Wild Mouse Building. A copy of the Certificate with an electronic set of final drawings (contact approval authority for specific electronic format) shall be submitted to the approval authority after:
- a) the site has been periodically inspected and the Certifier is satisfied that the structural works is deemed to comply with the final design drawings; and
 - b) the drawings listed on the Inspection Certificate have been checked with those listed on the final Design Certificate/s.

MECHANICAL VENTILATION

- E4 Following completion, installation and testing of all the mechanical ventilation systems, the Applicant shall provide evidence to the satisfaction of the PCA, prior to the issue of any Occupation Certificate, that the installation and performance of the mechanical systems complies with:
- a) the BCA;
 - b) Australian Standard AS1668 and other relevant code;
 - c) the development consent; and
 - d) any dispensation granted by the New South Wales Fire Brigade.

EXTERNAL LIGHTING

- E5 External Lighting shall comply with the Lighting Strategy approved **Condition B1**. Upon installation of lighting, but before it is finally commissioned, the Applicant shall submit to the Secretary evidence from an independent qualified practitioner demonstrating compliance in accordance with this condition.

FOOD PREMISES – HEALTH REGISTRATION DATABASE

- E6 Prior to the commencement of food handling operations, the proprietor of the food premises shall notify and register the food premises with Council's Health and Building Unit and the NSW Health Department at www.foodnotify.nsw.gov.au prior to the opening of the premises;
- E7 Prior to the commencement of food handling operations, the proprietor of the food premises shall notify the NSW Health Department of the following information:
- (a) contact details of the food business including the name of the food business and the name and address of the proprietor;
 - (b) the nature of the food business; and

- (c) the location of all food premises of the food business within the jurisdiction of NSW Health.

END OF PART E

DRAFT

PART F – DURING OPERATION

HOURS OF OPERATION

- F1 The hours of operation of the Wild Mouse Building shall be in accordance with the approved hours of operation for internal spaces in DA154-06-01, being 7-days-a-week from 7 am to 1 am.

PATRON NUMBERS

- F2 The numbers of patrons attending a function in the Wild Mouse Building shall not exceed 300 persons at any time.

LIGHTING

- F3 All lighting shall comply and operate in accordance with the “Lighting Strategy” approved under **Condition B1** at all times.
- F4 Lighting to minimise light spill to adjoining residential areas must be undertaken in accordance with the approved Lighting Strategy at all times.

NOISE

- F5 The noise levels emanating from the Wild Mouse Building shall be in accordance with DA154-06-01, which requires that LA₁₀, 1-hour noise level emanating from buildings and internal spaces shall not exceed 60dB(A) at any time, measured from the closest residential façade.
- F6 The noise levels generated must also comply with the requirements of the *Luna Park Site Act 1990*.
- F7 The operators of Luna Park and use of the Wild Mouse Building must comply with the Acoustic Plan of Management report prepared by Hyder Consulting dated 4 June 2002.

PATRON MANAGEMENT

- F8 In continuing the ongoing use of the Wild Mouse Building, the Applicant must comply with the *Patron Management Plan* prepared by Glemon Security Pty Ltd dated 3 May 2002.

ANNUAL FIRE SAFETY CERTIFICATE

- F9 An annual **Fire Safety Statement** must be given to Council and the Fire & Rescue NSW commencing within 12 months after the date on which the initial Interim/Final Fire Safety Certificate is issued. This must ensure that the essential services installed in the building for the purpose of fire safety have been inspected and at the time of inspection are capable of operating to the required minimum standard.

LOADING AND UNLOADING

- F10 All loading and unloading of service vehicles in connection with the use of the premises shall be carried out wholly within the Site at all times.

UNOBSTRUCTED DRIVEWAYS AND PARKING AREAS

- F11 All driveways and parking areas shall be unobstructed at all times. Driveways and car spaces shall not be used for the manufacture, storage or display of goods, materials or any other equipment and shall be used solely for vehicular access and for the parking of vehicles associated with the use of the premises.

ODOUR REQUIREMENTS

- F12 The use of the premises must not give rise to the emission of gases, vapours, dusts or other impurities which are a nuisance, injurious or prejudicial to health.
- F13 Gaseous emissions from the development must comply with the requirements of the *Protection of the Environment Operations Act, 1997* and Regulations. Uses that produce airborne particulate matter must incorporate a dust collection system.

COMPLAINTS – SMOKE AND/OR ODOUR

- F14 Should substantiated complaints be made to the Department and/or Council regarding smoke and/or odour or other air pollutants, then mitigation measures and ongoing management strategies are to be developed by a suitably qualified person and submitted to the Secretary for approval.

Until suitable mitigation measures are in place, the use must be managed so as not to create nuisance including particulate matter, odour, fumes and smoke emissions to the satisfaction of an authorised officer of Council or the Department. Any control measures should be in accordance with best management practices and odour controls based on the level 3 technique as outlined in the *Technical framework: assessment and management of odour from stationary sources in NSW*, prepared by the Department of Environment and Conservation NSW.

END OF PART F

ADVISORY NOTES

Appeals

AN1 The Applicant has the right to appeal to the Land and Environment Court in the manner set out in the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*.

Other Approvals and Permits

AN2 The Applicant shall apply to the Council for all necessary permits including crane permits, road opening permits, hoarding or scaffolding permits, footpath occupation permits and/or any other approvals under Section 68 (Approvals) of the *Local Government Act, 1993* or *Section 138 of the Roads Act, 1993*.

Responsibility for Other Consents / Agreements

AN3 The Applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

Disability Discrimination Act

AN4 This application has been assessed in accordance with the *Environmental Planning and Assessment Act 1979*. No guarantee is given that the proposal complies with the *Disability Discrimination Act 1992*. The Applicant/owner is responsible to ensure compliance with this and other anti-discrimination legislation. The *Disability Discrimination Act 1992* covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references AS 1428.1 - *Design for Access and Mobility*. AS1428 Parts 2, 3 & 4 provides the most comprehensive technical guidance under the *Disability Discrimination Act 1992* currently available in Australia.

Commonwealth Environment Protection and Biodiversity Conservation Act 1999

AN5

- a) The *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* provides that a person must not take an action which has, will have, or is likely to have a significant impact on a matter of national environmental significance (NES) matter; or Commonwealth land, without an approval from the Commonwealth Environment Minister.
- b) This application has been assessed in accordance with the *New South Wales Environmental Planning & Assessment Act 1979*. The determination of this assessment has not involved any assessment of the application of the Commonwealth legislation. It is the Applicant's responsibility to consult the Department of Sustainability, Environment, Water, Population and Communities to determine the need or otherwise for Commonwealth approval and you should not construe this grant of approval as notification to you that the Commonwealth Act does not have application. The Commonwealth Act may have application and you should obtain advice about this matter. There are severe penalties for non-compliance with the Commonwealth legislation.