

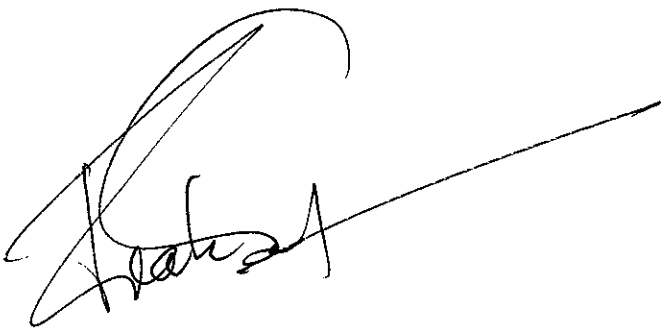
ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

APPROVAL OF MAJOR PROJECT NO. 06_0163

(FILE NO. 9043283-3)

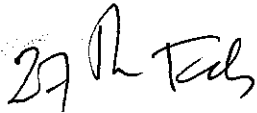
LUNA PARK SITE C – RESTAURANT

I, the Minister for Planning, under section 75J of the *Environmental Planning and Assessment Act*, 1979, approve the project referred to in Schedule 1 subject to the conditions in Schedule 2 and the Statement of Commitments of the Proponent in Schedule 3.

A large, stylized handwritten signature in black ink, likely belonging to Frank Sartor, Minister for Planning.

Frank Sartor MP
Minister for Planning

Sydney,

A handwritten date in black ink, reading "27 Feb".

2007

SCHEDULE 1

PART A—TABLE

Application made by:	Luna Park Sydney Pty Ltd
Application made to:	Minister for Planning
Major Project Application:	MP 06_0163
On land comprising:	Luna Park Lot 1 DP 1066900, including 'Site C'
Local Government Area	North Sydney
For the carrying out of:	Project Application for a restaurant and subdivision of land into 3 lots
Estimated Cost of Works	\$5,547,304.00
Type of development:	Major Project
S.119 Public inquiry held:	No
Determination made on:	27 February 2007

PART B—NOTES RELATING TO THE DETERMINATION OF MP NO. 06_0163

Responsibility for other approvals / agreements

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

Appeals

The Proponent 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 Regulations, 2000* (as amended).

Appeals—Third Party

A third party right to appeal to this development consent in the manner set out in the *Environmental Planning and Assessment Act, 1979* and the *Environmental Planning and Assessment Regulations, 2000* (as amended).

Legal notices

Any advice or notice to the consent authority shall be served on the Director-General.

PART C—DEFINITIONS

In this consent,

Act means the *Environmental Planning and Assessment Act, 1979* (as amended).

Advisory Notes means advisory information relating to the approved development but do not form a part of this consent.

Certifying Authority means a Certifying Authority and has the same meaning as Part 4A of the Act.

Council means North Sydney Council.

Department means the Department of Planning or its successors.

Director-General means the Director-General of the Department.

Environmental Assessment means the Environmental Assessment prepared by JBA Urban Planning Consultants Pty Ltd on behalf of Luna Park Sydney Pty Ltd and dated November 2006.

Minister means the Minister for Planning.

MP No. 06_0163 means the Major Project described in the Proponent's Environmental Assessment Report.

PCA means a Principal Certifying Authority and has the same meaning as Part 4A of the Act.

Proponent means Luna Park Sydney Pty Ltd or any party acting upon this consent.

Refreshment Room means a restaurant, café, tea room, eating house or the like.

Regulation means the *Environmental Planning and Assessment Regulations, 2000* (as amended).

Restaurant has the same meaning as a refreshment room.

Subject Site has the same meaning as the land identified in Part A of this schedule.

SCHEDULE 2

RECOMMENDED CONDITIONS OF APPROVAL

MAJOR PROJECT NO. 06_0163

PART A—ADMINISTRATIVE CONDITIONS

A1 *Development Description*

(1) Development consent is granted only to carrying out the development described in detail below:

- A 2 storey building (maximum of RL 31.50 AHD) intended for use as a restaurant is to be located on Lot 11;
- excavation of one basement car parking level accommodating 5 car spaces;
- provision of vehicle egress from Northcliff Street;
- provision of associated landscaping including public walkways and viewing platforms;
- provision of stormwater measures;
- subdivision of Lot 1 DP 1066900 (the entire cliff top area of Luna Park) into three lots. Lots 10, 11 and 12 have respective areas of 575.5m², 494.4m² and 1640m².

(2) The building is only to be used as a restaurant. No approval is granted for "*public entertainment*" as defined under the Local Government Act 1993. These uses would require a separate development application to the Council. Despite this, live acoustic music (no amplification) is permitted, where it is provided accompanying the provision of food.

(3) The BCA classification of the approved building is Class 6.

(4) The maximum number of patrons at the restaurant is 245.

(5) There is to be no access to the roof of the building except as required for maintenance purposes.

(6) No building identification signage is approved under this consent. Any signage for the building will be subject to a separate development application to be lodged with the Council.

(7) No approval is granted for a hoteliers license on this premises.

(8) Development must be carried out consistently with the Statement of Commitments (attached Schedule 3) except as amended by the conditions of approval.

(9) These conditions of approval do not relieve the Proponent of its obligations under any other Act.

A2 *Development in Accordance with Plans*

The approval shall be in accordance with MP 06_0163 and with the Environmental Assessment dated November 2006 prepared by JBA Urban Planning Consultants Pty Ltd including all Appendices, and the following drawings:

Architectural (or Design) Drawings prepared by Hassell at Appendix A of the Environmental Assessment		
Drawing No.	Name of Plan	Date
PSA7463-DA-C01	Site Plan	24.08.2006
PSA7463-DA-C02	Glen Street Elevation	24.08.2006
PSA7463-DA-C03	Western/Cliff Top Elevation	24.08.2006
PSA7463-DA-C04	Basement 1 Plan	24.08.2006
PSA7463-DA-C05	Ground Floor Plan	24.08.2006
PSA7463-DA-C06	First Floor Plan	24.08.2006
PSA7463-DA-C07	Roof Plan	24.08.2006 Plot Date 26/9/2006
PSA7463-DA-C08	North Elevation	24.08.2006
PSA7463-DA-C09	South Elevation	24.08.2006
PSA7463-DA-C10	East Elevation	24.08.2006
PSA7463-DA-C11	West Elevation	24.08.2006
PSA7463-DA-C12	Section A	24.08.2006
PSA7463-DA-siteC finishes	Material Finishes	14.09.2006
Stormwater Plan prepared by Hyder Consulting at Appendix N of the Environmental Assessment		
Drawing No.	Name of Plan	Date
HSW-C01 Issue P1	Hydraulic Services Stormwater Drainage Concept Site C Basement Level 1 & Legend	23.05.2006
HSW-C02 Issue P1	Hydraulic Services Stormwater Drainage Concept Site C Basement Level 1 & Legend	23.05.2006
Plan of Subdivision prepared by Hill & Blume Pty Ltd at Appendix O of the Environmental Assessment		
36137-29 RL	Plan of Subdivision	21.09.2006

except for:

- (1) any modifications which are 'Exempt Development' as identified in *North Sydney Local Environmental Plan 2001* or as may be necessary for the purpose of compliance with the BCA and any Australian Standards incorporated in the BCA, or as may be necessary to comply with all relevant Food Codes;
- (2) otherwise provided by the conditions of this consent.

A3 Inconsistency between documents

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above including the Statement of Commitments, the conditions of this consent prevail.

A4 Prescribed Conditions

The Proponent shall comply with the prescribed conditions of development consent under clause 98 of the Regulation.

PART B—PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

B1 *Staging of Construction Certificates*

Separate Construction Certificates may be obtained relating to the following stages of development, as approved:

Stage 1— Early works involving remediation, excavation and archaeological investigation;

Stage 2 - Construction of the building structure and all remaining works;

The following conditions relate to each stage and must be completed, unless otherwise stated, prior to the issue of a Construction Certificate for each stage.

B2 *Structural Details*

Prior to issue of the Stage 2 Construction Certificate, the Proponent shall submit to the satisfaction of the Certifying Authority, structural drawings prepared and signed by a suitably qualified practising Structural Engineer that comply with:

- (1) the relevant clauses of the BCA,
- (2) the relevant development consent,
- (3) drawings and specifications comprising the Construction Certificate, and
- (4) the relevant Australian Standards listed in the BCA (Specification A1.3).

Prior to works commencing, structural details and a Structural Certificate for Design in accordance with Clause A2.2(a)(iii) of the Building Code of Australia must be submitted to the satisfaction of the Certifying Authority.

B3 *Noise Attenuation Measures*

Prior to issue of the Stage 2 Construction Certificate, the Proponent shall submit to the satisfaction of the Certifying Authority, drawings and documentation demonstrating that the construction and fitout of the building incorporates the recommendations of the Environment Noise Impact of Proposed Restaurant assessment undertaken by Acoustic Logic Consultancy – Noise and Vibration Consultants dated 26 September 2006.

B4 *Stormwater and Drainage*

- (1) Prior to release of the Stage 1 Construction Certificate/prior to commencement of Stage 1 works, details of the proposed stormwater disposal and drainage relating to the excavation and basement structures and stormwater as it relates to the approved building on the site (MP06_0163), in accordance with Council's standard requirements, and details of the provision and maintenance of overland flow paths must be submitted to and approved by Council. All approved details for the disposal of stormwater and drainage are to be implemented in the development.
- (2) Any proposed connection to the Council's underground drainage system will require the owner to enter into a Deed of Agreement with the Council and obtain registration on Title of a Positive Covenant prior to the commencement of any work within the public way.
- (3) The requirements of Sydney Water with regard to the on-site detention and disposal of stormwater must be ascertained and complied with. Evidence of the approval of Sydney Water of the stormwater disposal system must be submitted prior to works commencing.

B5 Sydney Water – Section 73 Certificate

An application shall be made to Sydney Water for a Certificate under Part 6, Division 9, Section 73 of the *Water Board (Corporatisation) Act, 1994* (Compliance Certificate). Evidence that a Compliance Certificate has been applied for (i.e. Notice of Requirements) shall be produced to the satisfaction of the Certifying Authority prior to the issue of the Stage 1 Construction Certificate/prior to commencement of Stage 1 works.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the "Your Business" section of the web site www.sydneywater.com.au then follow the "e-Developer" icon or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

B6 Construction Management Plan

Prior to release of the Stage 1 Construction Certificate/prior to commencement of Stage 1 works, the Proponent shall provide the Construction Management Plan prepared by Multiplex Pty Ltd to the Council and the Certifying Authority in accordance with the Proponent's Statement of Commitments (attached Schedule 3).

B7 Landscaping of the Site

Prior to the issue of a Stage 2 Construction Certificate, a detailed landscape plan, drawn to scale, by a landscape architect or approved landscape consultant, shall be submitted to and approved by the Certifying Authority. The plan is to include:

- (i) Location of existing and proposed structures on the site including existing trees (if applicable);
- (ii) Details of earthworks including mounding and retaining walls and planter boxes (if applicable);
- (iii) Details of protection measures to be implemented to ensure that the existing trees nominated as being retained are retained;
- (iv) The recommendations contained within the Arborist Report prepared by Tree Wise Men Pty Ltd and dated September 2006.
- (v) Location, numbers and type of plant species;
- (vi) Details of planting procedure and maintenance;
- (vii) Details of drainage and watering systems;
- (viii) Details of the design, location and size of any deck areas; and
- (ix) a maintenance plan/regime.

B8 Car Parking Spaces and Dimensions

The design, layout, signage, line marking, lighting and physical controls of all off-street parking facilities must comply with the minimum requirements of Australian Standard AS/NZS 2890.1 - 2004 Parking facilities Part 1: Off-street car parking and Council's Development Control Plan. The details must be submitted to and approved by the Certifying Authority prior to the Stage 2 Construction Certificate being issued.

B9 Noise and Vibration Management Plan

Prior to release of the Stage 1 Construction Certificate/prior to commencement of Stage 1 works, a Noise and Vibration Management Plan prepared by a suitably qualified person shall be submitted to and approved by the Certifying Authority. The Plan shall address, but not be limited to, the following matters:

- (1) Identification of the specific activities that will be carried out and associated noise sources,
- (2) Identification of all potentially affected sensitive receivers including residences, schools, and properties containing noise sensitive equipment,
- (3) The construction noise objective specified in the conditions of this consent,
- (4) The construction vibration criteria specified in the conditions of this consent,
- (5) Determination of appropriate noise and vibration objectives for each identified sensitive receiver,
- (6) Weekly noise and vibration monitoring during peak construction activity, or other such interval as agreed to by Council, to the satisfaction of Council, and reporting and response procedures,
- (7) Assessment of potential noise and vibration from the proposed construction activities including noise from construction vehicles and any traffic diversions,
- (8) Description of specific mitigation treatments, management methods and procedures that will be implemented to control noise and vibration during construction,
- (9) Justification of any proposed activities outside the construction hours specified in the conditions of this consent,
- (10) Construction timetabling to minimise noise impacts including time and duration restrictions, respite periods, and frequency,
- (11) Procedures for notifying residents of construction activities that are likely to affect their amenity through noise and vibration, and
- (12) Contingency plans to be implemented in the event of non-compliances and/or noise complaints.

The Proponent shall submit a copy of the approved plan to the Council.

B10 Footpath and Road Damage Bank Guarantee

Prior to release of the Stage 1 Construction Certificate/prior to commencement of Stage 1 works the Proponent must provide a bank guarantee for a reasonable sum to be determined by Council as security for rectification of any damage to the public way and roadways adjacent to the site resulting from the works the subject of this approval.

B11 Long Service Levy

Prior to the Stage 1 Construction Certificate/prior to commencement of Stage 1 works being issued for the approved works (Capital Investment Value of \$5,547,304.00), the long service levy of \$19,415.56 payable under Section 34 of the *Building and Construction Industry Long Service Payments Act 1986* must be paid to Council (or, where such a levy is payable by instalments, the first instalment of the levy).

B12 Section 94 Contribution

Prior to the Stage 1 Construction Certificate/prior to commencement of Stage 1 works being issued for the works approved by this development consent, a Section 94 contribution in accordance with Council's Section 94 Contributions Plan 2004 shall be paid to the

satisfaction of the Council. The current contribution for the development is \$21,043.35 however the contribution rate is subject to indexation and may change between the date on which this consent is granted and payment of the contribution, and the Section 94 Contribution shall be calculated according to the then current contribution rate.

B13 Application for Hoarding

A separate application is to made to the Council, and approved prior to release of the Stage 1 Construction Certificate/prior to commencement of Stage 1 works, to erect an appropriate hoarding surrounding the site.

B14 Waste Management Plan

Prior to issue of the Stage 1 Construction Certificate/prior to commencement of Stage 1 works, the Proponent shall provide a Waste Management Plan addressing demolition and construction waste for the approval of the Certifying Authority.

B15 Site contamination

Prior to the issue of the Stage 1 Construction Certificate/prior to commencement of Stage 1 works, the Proponent shall submit to the Certifying Authority a Stage 2 Environmental Site Assessment to determine the extent of remediation required and the waste classification of soils for offsite disposal if remediation is required. A Remedial Action Plan (RAP) shall also be prepared and submitted to the Certifying Authority. The Remediation Action Plan must be accompanied by a statement from a site auditor accredited by the Environmental Protection Agency to issue site audit statements.

PART C—PRIOR TO COMMENCEMENT OF CONSTRUCTION WORKS**C1 Site Audit**

Prior to the commencement of construction works (excluding excavation), remediation of the site shall be undertaken in accordance with the RAP referred to in Condition B15. At the completion of the remediation works the Proponent shall submit a detailed Site Audit Summary Report, Site Audit Statement and Validation Report to the Certifying Authority. The site audit must be prepared in accordance with the *Contaminated Land Management Act 1997* and be completed by a site auditor accredited by the Department of Environment and Conservation (Environmental Protection Agency) to issue site audit statements. The site audit must verify that the land is remediated and suitable for the proposed uses.

C2 Archaeological Investigation

Prior to the commencement of construction work (excluding excavation) and during the remediation and excavation phase, an archaeological investigation of the site shall be carried out in accordance with the requirements of the Archaeological Assessment of Site C prepared by Environmental Resources Management Australia and dated September 2006, as contained in Appendix H of the Environmental Assessment.

C3 Construction Certificate required prior to construction works

In accordance with the provisions of Section 81A of the *Environmental Planning and Assessment Act 1979* construction works approved by this consent must not commence until:

- (a) a Construction Certificate for the building work has been issued by the consent authority, Council or a certifying authority; and

- (b) a Principal Certifying Authority has been appointed and the Department of Planning, Council and the Luna Park Reserve Trust has been notified in writing of the appointment, and
- (c) at least two days notice, in writing, has been given to Council and the Luna Park Reserve Trust of the intention to commence work.

The documentation required under this condition shall show that the proposal complies with all development consent conditions and the *Building Code of Australia*.

C4 Erosion and Sediment Control

All erosion and sediment control measures, in accordance with the Proponent's Statement of Commitments (attached Schedule 3), are to be effectively implemented.

C5 Barricade Permit

Where construction/building works require the use of a public place including a road or footpath, approval under Section 68 of the Local Government Act 1993 for a Barricade Permit is to be obtained from Council prior to the commencement of work. Details of the barricade construction, area of enclosure and period of work are required to be submitted to the satisfaction of Council.

C6 Vehicle Cleansing

Prior to the commencement of work, suitable measures are to be implemented to ensure that sediment and other materials are not tracked onto the roadway by vehicles leaving the site. It is an offence to allow, permit or cause materials to pollute or be placed in a position from which they may pollute waters.

C7 Utility Services

To ensure that utility authorities are advised of the development:

- (1) A survey is to be carried out of all utility services within and adjacent to the site including relevant information from utility authorities and excavation if necessary, to determine the position and level of services.
- (2) Prior to the commencement of work the Proponent is to negotiate with the utility authorities (eg. Energy Australia, Sydney Water and Telecommunications Carriers) in connection with the relocation and/or adjustment of the services affected by the construction of the underground structure. Any costs in the relocation, adjustment or support of services are to be the responsibility of the developer.

C8 Contact Telephone Number

Prior to the commencement of the works, the Proponent shall forward to the Luna Park Reserve Trust and Council a 24 hour telephone number for the site manager to be operated for the duration of the construction works.

PART D—DURING CONSTRUCTION

D1 Construction Management Plan

All works are to be carried out in accordance with the approved Construction Management Plan including but not limited to identification of hours of work, construction noise and

vibration management, soil erosion and sediment control plan, air quality and dust control procedures, waste management plan, storage and handling of material, and emergency procedures.

D2 *Erosion and Sediment Control*

All erosion and sediment control measures, in accordance with the Proponent's Statement of Commitments (attached Schedule 3), are to be maintained at or above design capacity for the duration of the construction works and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.

During the construction period:

- (a) erosion and sediment controls must be regularly inspected, repaired and maintained in working order sufficient for a 10 year Average Recurrence Interval (ARI) rainfall event;
- (b) erosion and sediment control signage available from Council must be completed and attached to the most prominent structure visible at all times when entering the site for the duration of construction; and
- (c) building operations and stockpiles must not be located on the public footway or any other locations which could lead to the discharge of materials into the stormwater system.

D3 *Disposal of Seepage and Stormwater*

Any seepage or rainwater collected on-site during construction shall not be pumped to the street stormwater system unless separate prior approval is given in writing by Council.

D4 *Approved Plans to be On-site*

A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the site at all times and shall be readily available for perusal by any officer of the Department, Council, the Luna Park Reserve Trust or the Principal Certifying Authority.

D5 *Site Notice*

A site notice(s) shall be prominently displayed at the boundaries of the site for the purposes of informing the public of project details including, but not limited to the details of the Builder, Certifying Authority and Structural Engineer. The notice(s) is to satisfy all but not be limited to, the following requirements:

- (1) Minimum dimensions of the notice are to measure 841mm x 594mm (A1) with any text on the notice to be a minimum of 30 point type size;
- (2) The notice is to be durable and weatherproof and is to be displayed throughout the works period;
- (3) 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
- (4) 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.

D6 *Dust Control Measures*

Adequate measures shall be taken to prevent dust from affecting the amenity of the neighbourhood during construction. In particular, the following measures must be adopted:

- (1) Physical barriers shall be erected at right angles to the prevailing wind direction or shall be placed around or over dust sources to prevent wind or activity from generating dust emissions,
- (2) Earthworks and scheduling activities shall be managed to coincide with the next stage of development to minimise the amount of time the site is left cut or exposed,
- (3) All materials shall be stored or stockpiled at the best locations,
- (4) The surface should be dampened slightly to prevent dust from becoming airborne but should not be wet to the extent that run-off occurs,
- (5) All vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust or other material,
- (6) All equipment wheels shall be washed before exiting the site using manual or automated sprayers and drive-through washing bays,
- (7) Gates shall be closed between vehicle movements and shall be fitted with shade cloth, and
- (8) Cleaning of footpaths and roadways shall be carried out regularly.

D7 *Hours of Work*

The hours of construction, including the delivery of materials to and from the site, shall be restricted as follows:

- (1) between 7:00 am and 6:00 pm, Mondays to Fridays inclusive;
- (2) between 8:00 am and 1:00 pm, Saturdays;
- (3) no work on Sundays and public holidays.

Works may be undertaken outside these hours where:

- (4) the delivery of materials is required outside these hours by the Police or other authorities;
- (5) it is required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm;
- (6) the work is approved through the Construction Noise and Vibration Management Plan; and
- (7) residents likely to be affected by the works are notified of the timing and duration of these works at least 48 hours prior to the commencement of the works.

D8 *Construction Noise Objective*

The construction noise objective for the Project is to manage noise from construction activities (as measured by a L_{A10} (15minute) descriptor) so it does not exceed the background L_{A90} noise level by:

- (1) For the first four weeks of the construction period, not more than 20dB(A);
- (2) From the 5th week to the 26th week (inclusive) of the construction period, not more than 10dB(A); and
- (3) For construction periods greater than 26 weeks, not more than 5dB(A).

Background noise levels are those identified in the Acoustic Report prepared by Acoustic Logic Consultancy – Noise and Vibration Consultants dated 26 September 2006 or otherwise identified in the approved Construction Noise and Vibration Management Plan. The Applicant shall implement all feasible noise mitigation and management measures with the aim of achieving the construction noise objective.

Any activities that have the potential for noise emissions that exceed the objective must be identified and managed in accordance with the approved Construction Noise and Vibration Management Plan.

If the noise from a construction activity is substantially tonal or impulsive in nature (as described in Chapter 4 of the NSW Industrial Noise Policy), 5dB(A) must be added to the measured construction noise level when comparing the measured noise with the construction noise objective.

D9 Construction Noise Management

The Applicant shall:

- (1) schedule rock breaking, rock hammering, sheet piling, pile driving and any similar activity only between the following hours unless otherwise approved in the Construction Noise and Vibration Management Plan:
 - (a) 9.00 am to 12.00 pm, Monday to Friday;
 - (b) 2.00 pm to 5.00 pm Monday to Friday; and
 - (c) 9.00 am to 12.00 pm, Saturday
- (2) ensure that wherever practical, and where sensitive receivers may be affected, piling activities are completed using bored piles. If driven piles are required they must only be installed where approved in the Construction Noise and Vibration Management Plan.

D10 Vibration Criteria

Vibration caused by construction at any residence or structure outside the subject site must be limited to:

- (1) for structural damage vibration, German Standard DIN 4150 Part 3 Structural Vibration in Buildings. Effects on Structures; and
- (2) for human exposure to vibration, the evaluation criteria presented in British Standard BS 6842- Guide to Evaluate Human Exposure to Vibration in Buildings (1Hz to 80 Hz) for low probability of adverse comment.

These limits apply unless otherwise approved in the Construction Noise and Vibration Management Plan.

D11 Loading and Unloading during Construction

The following requirements apply:

- (1) all loading and unloading associated with construction must be accommodated on site;
- (2) the structural design of the building must permit the basement and/or the ground floor to be used as a loading and unloading area for the construction of the remainder of the development;
- (3) if, during excavation, it is not feasible for loading and unloading to take place on site, a construction zone on the street may be considered by the Council;
- (4) in addition to any approved construction zone, provision must be made for loading and unloading to be accommodated on site once the development has reached ground level;
- (5) if a construction zone is warranted an application must be made to the Council prior to commencement of work on the site. An approval for a construction zone may be given for a specific period and certain hours of the days to meet the particular need of the site for such a facility at various stages of construction. The approval will be

reviewed periodically for any adjustment necessitated by the progress of the construction activities.

D12 *Public Way to be Unobstructed*

The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances.

PART E—PRIOR TO OCCUPATION

E1 *Occupation Certificate to be Submitted*

An Occupation Certificate must be obtained from the Principal Certifying Authority and a copy submitted to Council prior to the commencement of occupation or use of the building.

E2 *Fire Safety Certificate to be Submitted*

A Fire Safety Certificate must be submitted to the Principal Certifying Authority for all of the items listed in the Fire Safety Schedule prior to an Occupation Certificate being issued.

E3 *Landscaping*

All landscaping in the approved plan is to be completed in accordance with the requirements of Condition B5, and the requirements of the maintenance plan commenced, prior to and Occupation Certificate being issued.

E4 *Structural Inspection Certificate*

A Structural Inspection Certificate or a Compliance Certificate must be submitted to the satisfaction of the PCA prior to the issue of any Occupation Certificate and/or use of the premises. A copy of the Certificate with an electronic set of final drawings (contact consent authority for specific electronic format) shall be submitted to the consent authority and the Council after:

- (1) 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,
- (2) The drawings listed on the Inspection Certificate have been checked with those listed on the final Design Certificate/s

E5 *Works-as-executed plan*

Work-as-executed plans of the stormwater drainage system prepared and certified by a Registered Surveyor together with certification by a qualified practicing Civil Engineer with NPER registration with the Institution of Engineers Australia to verify that the required drainage works have been constructed in accordance with the approved design and relevant Australian Standards.

E6 *Road Damage*

The cost of repairing any damage caused to Council or other Public Authority's assets in the vicinity of the subject site as a result of construction works associated with the approved development, is to be met in full by the Proponent/developer prior to the issue of any Occupation Certificate.

Note: Should the cost of damage repair work not exceed the road maintenance bond, Council will automatically call up the bond to recover the costs. Should the repair costs exceed the bond amount, a separate invoice will be issued.

E7 *Sydney Water*

A Compliance Certificate issued under Part 6, Division 9, Section 73 of the *Water Board (Corporatisation) Act, 1994* shall be submitted to the PCA prior to the issue of the Occupation Certificate.

E8 *Food Business Registration*

Evidence of the registration of the food business with the NSW Department of Health must be provided to the PCA prior to the issue of the Occupation Certificate.

PART F—PRIOR TO RELEASE OF SUBDIVISION CERTIFICATE**F1 *Section 88B Instrument – Lot 12***

The Subdivision Certificate shall not be released unless it is accompanied by a Section 88B Instrument with terms which clearly define the obligations of the owner/lessee of the property in relation to the ongoing management and preservation of natural features on Lot 12, to the satisfaction of The Department of Planning.

F2 *Section 88B Instrument – Lot 10*

The Subdivision Certificate shall not be released unless it is accompanied by a Section 88B Instrument with terms which prevent the erection of a habitable building on Lot 10, to the satisfaction of The Department of Planning.

PART G—ONGOING/OPERATIONAL CONDITIONS**G1 *Compliance Report***

The Proponent, or any party acting upon this consent, shall submit to the Department within 12 months of the issuing of the Occupation Certificate, a compliance report addressing compliance with all relevant conditions of consent.

G2 *Annual Fire Safety Certification*

The owner of the building shall certify to the Council every year 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. This purpose of this condition is to ensure that there is adequate safety of persons in the building in the event of fire and for the prevention of fire, the suppression of fire and the prevention of spread of fire.

G3 *Loading and Unloading*

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.

G4 *Noise Control*

The occupier/lessee of the building is to ensure that the recommendations of the Environment Noise Impact of Proposed Restaurant assessment undertaken by Acoustic Logic Consultancy – Noise and Vibration Consultants dated 26 September 2006 regarding the use of the building, are implemented at all times. The operable glass louvers on the eastern and north/western sides of the building are to be closed at 8pm. Only non-amplified acoustic live music or low level internal ambient music is permitted inside the building.

G5 *No Speakers Or Music Outside*

Speakers must not be installed and music must not be played in any of the outdoor areas associated with the premises including the public domain.

G6 *Car Parking*

Patrons are to be encouraged to park within the Luna Park Entertainment Precinct carpark.

G7 *Time Of Waste Collection*

All waste collection by private contractors must be between 8.00am and 10.30pm, 7 days per week.

G8 *Care Of Building Surrounds*

In addition to Council's daily street sweeping and cleansing operations, the owner/manager of the building shall ensure that the surrounds of the building including pavements and gutters are to be kept clean and free of litter at all times.

G9 *Hours Of Operation*

The hours of operation are regulated as follows:

- a) The hours of operation must be restricted to between 8am and 12midnight Mondays to Saturdays inclusive and 8am and 10pm on Sundays.

G10 *Hours Of Operation – Trial Period*

Notwithstanding condition G8 above, the use may operate between 8am and 1am the following morning on Thursdays, Fridays and Saturdays, and 8am and 12midnight on Sundays, for a trial period of 3 months, with an option for the Director General, after seeking the views of the Council, to grant an extension of the trial for a further period of 9 months from the date of commencement of use of the premises.

A development application may be lodged with Council to further continue the extended trading hours outlined above at least 3 months before the end of the trial period. Consideration of a proposed continuation and/or extension of the hours permitted by the trial will be based on, among other things, the performance of the operator in relation to the compliance with development consent conditions, any substantiated complaints received and any views expressed by the Police.

G11 *Alcohol*

Alcohol shall only be available at times when the service of a meal is also available.

G12 *Gaming Machines*

No gaming machines are permitted on the premises.

G13 *Maximum Number of Patrons*

A maximum of 245 patrons are permitted at the premises at any time.

ADVISORY NOTES

AN1 Compliance with Building Code of Australia

The Proponent is advised to consult with the Certifying Authority about compliance with the BCA prior to submitting the application for a Construction Certificate.

AN2 Use of Mobile Cranes

The Proponent shall obtain all necessary permits required for the use of mobile cranes on or surrounding the site, prior to the commencement of works. In particular, the following matters shall be complied:

- (1) For special operations including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on street use of mobile cranes, permits must be obtained from the relevant road authority:
 - (a) at least 48 hours prior to the works for partial road closures which, in the opinion of road authority will create minimal traffic disruptions, and
 - (b) at least 4 weeks prior to the works for full road closures and partial road closures which, in the opinion of the road authority, will create significant traffic disruptions.

AN3 Movement of Trucks Transporting Waste Material

The Proponent shall notify the Roads and Traffic Authority's Traffic Management Centre (TMC) of the truck route(s) to be followed by trucks transporting waste material from the site, prior to the commencement of the removal of any waste material from the site.

AN4 Approval under Roads Act 1993

The Proponent shall obtain, as necessary, approvals under Section 138 of the Roads Act 1993 for any works to be carried out on public roads.

AN5 Construction Inspections

Compliance certificate/s shall be issued by the Principal Certifying Authority and submitted to Council in accordance with the mandatory inspection requirements of the *Building Legislation Amendment—Quality of Construction Act, 2002* for each stage of construction.

AN6 Noise Generation

Any noise generated during the construction of the development shall not exceed limits specified in any relevant noise management policy prepared pursuant to the *Protection of the Environment Operations Act, 1997* or exceed approved noise limits for the site.

AN7 Stormwater drainage works or effluent systems

A construction certificate for works that involve any of the following:

- (1) water supply, sewerage and stormwater drainage work
- (2) management of waste

as defined by Section 68 of the Local Government Act, 1993 will not be issued until prior separate approval to do so has been granted by Council under Section 68 of that Act. Applications for these works must be submitted on Council's standard Section 68 application form accompanied by the required attachments and the prescribed fees.

AN8 Temporary Structures

An approval under Section 68 of the Local Government Act 1993 must be obtained from the Council for the erection of the temporary structures. The application must be supported by a report detailing compliance with the provisions of the Building Code of Australia.

Structural certification from an appropriately qualified practicing structural engineer must be submitted to the Council with the application under Section 68 of the Local Government Act 1993 to certify the structural adequacy of the design of the temporary structures.

AN9 Disability Discrimination Act

The Proponent/owner is responsible to ensure compliance with the Disability Discrimination Act 1992 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.

SCHEDULE 3

MP 06_0163

LUNA PARK SITE C – RESTAURANT

STATEMENT OF COMMITMENTS

(SOURCE: ENVIRONMENTAL ASSESSMENT)

Scope of development	1	<p>The proposed development will be carried out in accordance with the description of the development as detailed in Section 3.0 of this report and the Architectural Plans prepared by Hassell Architects comprising:</p> <ul style="list-style-type: none"> ▪ 2 storeys (maximum of RL 31.50); ▪ 1 basement car parking level accommodating 5 car spaces; ▪ provision of vehicle egress from Northcliff Street; ▪ excavation of the site to accommodate the basement level; ▪ provision of associated landscaping; and ▪ provision of stormwater measures.
Landscaping	2	The applicant will prepare and submit a detailed landscape plan for the development prior to issue of the Construction Certificate.
	3	The landscaping for the development is to be carried out in accordance with this detailed landscape plan.
Stormwater	4	The applicant will install stormwater measures in accordance with the proposed Stormwater Management Plan, as designed by Hyder Consulting.
Protection of fig trees	5	The condition of the trees is to be documented and photographed prior to work commencing.
	6	<p>The applicant is to ensure:</p> <ul style="list-style-type: none"> ▪ any deadwood greater than 25mm is removed from the adjoining trees; and ▪ ongoing monitoring of the trees be carried out post construction to ensure that additional limbs or deadwood be removed in accordance with Australia Standard AS 4373 – 1996 and NSW Workcover Code of Practice for the Amenity Tree Industry, 1998.
	7	<p>The following tree protection measures are to be carried out during excavation of the site and construction of the development:</p> <ul style="list-style-type: none"> ▪ fencing off the boundaries of the site prior to earthworks or site preparation works, so as to provide a suitable Tree Protection Zone (TPZ) at the canopy of the tree; ▪ prohibiting the following activities within the TPZ – excavation, trenching, placement of soil (temporary or permanent), storage of building materials, siting of construction sheds or offices, depositing of any materials likely to contaminate soil or for storage; ▪ minimise soil battering towards the trees during excavation; ▪ temporary irrigation in the form of fixed hoses and coupling points be provided within the canopy line of trees to supplement rainfall; ▪ any exposed tree roots are to be draped in 10mm thick layer of biodegradable jute matting to buffer drying and cement contamination; and ▪ that the health of the trees be regularly monitored during the excavation and construction of the development by a qualified arborist.
	8	<p>To ensure the long term health of the trees the following measures as detailed in the Tree Management Plan will be carried out after construction of the proposed development:</p> <ul style="list-style-type: none"> ▪ ongoing and regular arboricultural monitoring be carried to ensure the trees' safe condition, free of major deadwood; ▪ the ground beneath the tree be mulched with a partly composted woody mulch to suppress weed growth and to conserve soil moisture; and ▪ ensure that non-permeable surfaces are not constructed within the tree canopy line.
Excavation works	9	Additional detailed investigations are required to be undertaken prior to construction of the development to provide a more comprehensive appraisal of the site's geo-fabric. This will confirm the presence of Class III Sandstone (or better), which is anticipated on the site, and will involve cored boreholes.
	10	Any localised seepages of groundwater during the excavation stages of development are to be handled by standard sump and pump techniques.
	11	All structures are to be supported on footings founding on insitu sandstone to ensure even bearing and to reduce the risk of differential settlement.
	12	<p>In accordance with the Preliminary Geotechnical Report the following measures are to be carried during excavation of the site:</p> <ul style="list-style-type: none"> ▪ removal of loose fill material at the crest of the cliff line which is then pulled back onto the site and removed; ▪ use of 'rock fall mesh' to the sandstone boulders within the regarded fill slope and the upper 2 metres of rock face to provide slope stabilisation; ▪ this mesh is to be anchored to the rock face by 1.5 metre long stainless rock bolts; ▪ undertaking geological mapping to confirm the extent of the support measures at the crest of the cliff line within be required once the vegetation and fill mounds have been removed; ▪ securing the foundations of the building below the basement floor level and not through the remaining rock pillar between the basement and the cliff face; ▪ excavation of fill, natural soils and extremely weathered rock should be carried out by backhoe or excavator; ▪ given that the sandstone is expected to be medium to high strength with some ironstone banding, heavy ripping or impact breaking may be locally required; and ▪ rock sawing or rock grinding be employed in excavating the northern and western portions of the site for the basement to reduce the impact of vibrations to the cliff.

	13	In order to stabilise and support the area excavated for the basement the following measures are required to be carried out: <ul style="list-style-type: none"> ▪ use of batter slopes for unsupported cuts in both the existing fill and natural materials. The details of the types temporary and permanent batters are included in the Preliminary Geotechnical Report by Coffey; ▪ excavation work be inspected by a Geotechnical Engineer or Engineering Geologist to determine whether localised rock bolting is required to control any adverse jointing in the sandstone; ▪ zones affected by unfavourable defects may require support through the installation of galvanised, fully grouted and nominally tensioned steel dowels, and ▪ steel mesh and shotcrete protection may also be required if weathered seams or poor quality rock layers are exposed.
	14	To provide permanent support to retaining fill materials around the perimeter of the excavated basement the use of retaining structures with a designed bulk unit weight of 18kN/m ³ and an earth pressure coefficient K of 0.50 if a relatively rigid wall is needed or 0.35 if more movement can be tolerated.
Noise	15	The applicant is to ensure that the proposed development accords with the noise and vibration criteria referred to in the Assessment of Environmental Noise Impact Report.
	16	Any plumbing, ventilation and air conditioning systems for the development are to be selected to accord with the noise criteria detailed in the Assessment of Environmental Noise Impact Report.
	17	All glazing for the development should be installed in accordance with the requirements detailed in the Assessment of Environmental Noise Impact Report.
	18	The operator/s of the restaurant are to employ the strategies outlined in the Assessment of Environmental Noise Impact Report for the ongoing management of patrons to the restaurant.
Construction management	19	The proposed excavation and construction of the development should be carried out in accordance with the Construction Management Plan prepared by Multiplex.
	20	In the event that both Site C and Site B are to be constructed concurrently the applicant will prepare and submit a collective Construction Management Plan for approval prior to commencement of works.
Subdivision	21	The subdivision Lot 1 DP1066900 is to be carried out in accordance with Section 81A(4) of the EP&A Act.
	22	A Section 88B instrument is to be lodged with the plan of subdivision. The instrument is to include details of the ongoing management and preservation of natural features on proposed Lot 12.
BCA	23	Where aspects of the development are not able to comply with the 'deemed to satisfy' provisions of the BCA, alternative design solutions will need to be determined. A further BCA report is required to be prepared and submitted for approval prior to issue of the Construction Certificate to demonstrate the adequacy of alternative design solutions.