

## Development Consent

Section 80 of the *Environmental Planning and Assessment Act 1979*

I, the Chief Executive Officer of the Sydney Olympic Park Authority, pursuant to section 80(1) and 80(A) of the *Environmental Planning and Assessment Act 1979*, Clause 22 of the *Sydney Olympic Park Authority Act 2001*, and in accordance with the delegations invested to my office by the Minister for Planning, grant development consent to the development 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.



**Charles Moore**  
Chief Executive Officer  
Sydney Olympic Park Authority

Date: 30/1/2017

### SCHEDULE 1

|  |  |
|--|--|
| <b>Development Application:</b>        | DA 01-01-2017  |
| <b>Application made by:</b>            | Mark Harbidge (NRMA)   |
| <b>To:</b>                             | Sydney Olympic Park Authority  |
| <b>In respect of:</b>                  | Lot 2120 DP 1169474, Ground Floor Shop, 9 Murray Rose Avenue, Sydney Olympic Park  |
| <b>For the following:</b>              | Fitout & use of Ground Floor Shop as a Cafe with outdoor dining.   |
| <b>Determination:</b>                  | Consent granted subject to conditions in the attached <b>SCHEDULE 2</b>  |
| <b>Date of commencement of consent</b> | This development consent commences on the date signed / identified above   |
| <b>Advisory Notes</b>                  | <p>The Applicant is solely responsible that all additional consents and agreements are obtained from other authorities as relevant</p> <p>The Applicant has right to appeal to the Land and Environment Court in the manner as set out in the <i>Environmental Planning and Assessment Act 1979</i>, and the <i>Environmental Planning and Assessment Regulation 2000</i> (as amended)</p> |

**SCHEDULE 2**  
**CONDITIONS OF CONSENT**

**DEVELOPMENT APPLICATION No. 01-01-2017**

**PART A – ADMINISTRATIVE CONDITIONS**

**A1 Development Description**

Development Consent is granted only to carrying out of the development as described in, and on the land referred to, in **SCHEDULE 1** above.

**A2 Development in accordance with Plans & Documentation**

The development shall be undertaken in accordance with the following plans & documents:

|  |
|--|
| Architectural Plans prepared by Pepper, Project No. 16173, Drawing No. Da-01, Issue D, dated 23.1.17                       |
| Amended Statement of Environmental Effects prepared by Willow Tree Planning, Document Ref WTJ16-228, dated 23 January 2017 |
| Waste Management Plan prepared by Willow Tree Planning, Document Ref WTJ16-228, dated January 2017                         |
| BCA Letter prepared by Blackett Maguire + Goldsmith, dated 20 December 2016  |

Except for:

1. Any modifications as may be necessary for the purpose of compliance with the Building Code Of Australia (BCA) and any Australian Standard incorporated in the BCA;
2. Otherwise as marked in red on the approved plans and/or provided by the Conditions of this Approval;
3. Otherwise as necessary to comply with other NSW and Commonwealth legislation.

**A3 Inconsistency between documents**

In the event of any inconsistency between Conditions of this Approval and the details referred to Condition No. A2, the Conditions of this Approval prevail.

**A4 Commencement of works**

The development must physically commence within 5 years of determination date.

**A5 Prescribed Conditions**

The development is to comply with the prescribed conditions of development consent under Clause 98 of the *Environmental Planning and Assessment Regulation 2000*.

**A6 Critical stage inspections**

The *Environmental Planning and Assessment Act 1979* section 109E (3) (d), requires that inspections be carried out by the Principal Certifying Authority (PCA) or another Accredited Certifier with the prior consent of the PCA.

**A7 Mechanical Ventilation**

Mechanical ventilation and exhaust is to be reviewed and upgraded if required. These systems shall comply with the requirements of clause F4.5 of the BCA, NCC and its installation is to comply with AS 1668.2 – 2002.

**PART B – PRIOR TO CONSTRUCTION****B1 Construction Certificate**

A Construction Certificate is to be issued for the new building work by an accredited certifier in accordance with the requirements set out in Section 81A of the Environmental Planning and Assessment Act 1979.

**B2 Principle Certifying Authority**

The new building work is not to commence until a Principal Certifying Authority (PCA) has been appointed for the new building work as set out in Section 81A of the *Environmental Planning and Assessment Act 1979*.

**B3 Accessibility**

Prior to the issue of a Construction Certificate the proposed construction plans are to demonstrate compliance of the provisions for persons with a disability with the requirements of the Building Code of Australia, AS 1428.1 and *SOPA's Access Guidelines 2015*.

**B4 No Obstruction of Public Domain without a Works Permit**

Prior to the issue of a Construction Certificate, if required, the proponent is to obtain a Work Permit to occupy the public way, footpaths, road reserves and the like, which must not be obstructed by any mobile cranes, materials, vehicles, refuse, skips or the like, under any circumstances, unless in accordance with the Works Permit. Non-compliance with this requirement will result in the issue of a notice by the Authority to stop all work on the site.

**Note:** Further information on Work Permits can be obtained from [www.sydneyolympicpark.com.au](http://www.sydneyolympicpark.com.au).

**PART C – DURING CONSTRUCTION****C1 No Obstruction of Public Way**

The public way and road reserves must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances unless in accordance with a Works Permit. Non-compliance with this requirement will result in the issue of a notice by the Authority to stop **all** work on the site.

**Note:** further information on Work Permits can be obtained from [www.sydneyolympicpark.com.au](http://www.sydneyolympicpark.com.au).

**C2 Fit-out in accordance with base building Fire Engineered Design**

The fit-out shall be carried out within the provisions of the base building Fire Engineered Design and shall not compromise the existing base building Fire Engineered Design. All existing base building Essential Fire Safety measures including all the required exits are to be preserved within the base building areas and maintained and upgraded if required to accommodate the proposed new fit-out.

**C3 Fit-out in accordance with the *Building Code of Australia***

The fit-out shall be in accordance with the provisions of the Building Code of Australia (BCA) and any relevant Australian Standards, including, but not limited to:

1. Compliance in accordance with the requirements of Section J (Energy Efficiency) of the BCA,
2. Compliance of food preparation areas in accordance with *AS 4674-2004 Construction and fit-out of food premises*,
3. New pedestrian areas are to be constructed in accordance with *AS/NZS 4586:2004 Slip resistance classification of new pedestrian surface materials*.

**Note:** Sufficient information must be forwarded to the Certifying Authority illustrating compliance with the relevant requirements of the BCA and *Australian Standards*. Sufficient information may include (but not limited to) reports or certifications issued by an appropriately qualified person. Please contact your relevant Certifying Authority to discuss requirements prior to submission of the application for Construction and Occupation Certificate.

**C4 Work Health and Safety Act 2011**

All works are to be carried out in accordance with the *NSW Work Health and Safety Act 2011 & the Regulations 2011*.

**C5 Hours of Work**

All works (including site deliveries) shall only be carried out between the following hours:

1. 7.00am to 5.00pm on Monday to Fridays (inclusive)
2. 7.00am to 3.00pm on Saturdays
3. No work on Sundays and Public Holidays (except with the prior written consent of SOPA's Executive Director – Operations).

**C6 Food Premises**

The fit-out shall be in accordance with the requirements of the *NSW Food Act 2003*, *FSANZ Food Standards Code*, and *AS 4674-2004 (Design, Construction and Fit-out of Food Premises)*.

## **PART D – PRIOR TO OCCUPATION**

### **D1 Occupation Certificate**

An Occupation Certificate is to be issued by the Principal Certifying Authority (PCA) upon completion of the new fit-out building works in accordance with the requirements of Section 109H and 109M of the Environmental Planning and Assessment Act 1979.

### **D2 Proponent to pay for any damage to footpath or public assets**

The cost of repairing any damage caused to Sydney Olympic Park Authority 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 the final Occupation Certificate.

### **D3 Notification of NSW Food Authority**

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall be satisfied that the proprietor has notified the NSW Food Authority of the following information including:

1. Contact details for the food business, including the name and address of the business and proprietor of the business,
2. The nature of the food business, and
3. The location of any other food premises associated with the food business, within the jurisdiction of NSW Health.

### **D4 Mechanical Plant Noise Emissions**

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall be satisfied that noise associated with the use of mechanical plant and equipment will not give rise to any one or more of the following:

- a) Transmission of "offensive noise" as defined in the *Protection of the Environment Operations Act 1997* to any affected receiver.
- b) A sound pressure level at the boundary of the premises that exceeds the background (LA90, 15minutes) noise level by more than 5dB. The background noise level must be measured in the absence of noise emitted from the use in accordance with *Australian Standard AS1055 – 1997*.

## **PART E – DURING OCCUPATION**

### **E1 Annual Fire Safety Statement**

All fire safety measures serving the building are to be certified to the relevant local Consent Authority (City of Parramatta Council) as being maintained in accordance with the requirements of the Building Code of Australia and *Environmental Planning and Assessment Act 1979* and Regulations on a yearly basis within 12 months after the date on which the initial Fire Safety Certificate is issued.

**E2 Standard Hours of Operation**

The hours of operation of the business shall be restricted to between:

| DAY             | START  | FINISH      |
|-----------------|--------|-------------|
| Monday - Sunday | 6:00am | 12 midnight |

Note: The Proprietor must ensure that the operation of the business is carried out in a responsible manner and not to unduly interfere with building, shop or pedestrian function or amenity.

**E3 Liquor Licence**

No alcohol shall be served from the premises or stored or located within or upon the premises at any time without obtaining a relevant liquor licence and the appropriate responsible service of alcohol certificates and qualifications.

**E4 Loading and Unloading**

All loading and unloading service vehicles in connection with the use of the premises shall be carried out within the designated loading dock/bay only.

Loading and unloading of goods and waste to and from the shop must be carried out in a responsible manner and not to unduly interfere with building, shop, traffic or pedestrian function or amenity.

**E5 Waste Management**

No waste is to be stored on the footpaths or public domain areas of Sydney Olympic Park. All waste is to be stored and disposed from within the designated waste storage room.

**E6 Intruder Alarm**

Intruder alarm/s associated with the development is permitted to operate only in accordance with the requirements of Clause 53 of the *Protection of the Environment Operations (Noise Control) Regulation 2000* under the *Protection of the Environment Operations Act 1997*.

**E7 Signage Illumination**

Illuminated signs associated with the premises shall not flash intermittently or cause significant glare or injury to the amenity of the public domain or persons. If, in the opinion of Sydney Olympic Park Authority, injury is likely to be caused, the intensity, period of intermittency and hours of illumination may be varied to the satisfaction of Sydney Olympic Park Authority.

**E8 Outdoor Dining Public Risks Insurance**

Prior to the operation of the approved area for Outdoor Dining / Seating, the proprietor shall obtain Public Risk Insurance of at least \$10 million per occurrence for liabilities arising out of the proprietor's use of the outdoor dining area. Public Risk Insurance must to be maintained for the duration of approval specified for outdoor dining.

**E9 Outdoor Dining Licence**

Prior to the operation of the approved area for Outdoor Dining / Seating, the proprietor shall obtain a Commercial Outdoor Dining Licence from the Sydney Olympic Park Authority for the purpose of leasing the public domain area for the sole use of the premises/ restaurant's outdoor dining.

**E10 Delineation of Outdoor Dining Zone**

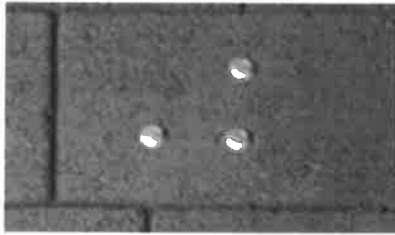
Prior to the operation of the approved area for Outdoor Dining / Seating, the proprietor shall install pavement markers on the pavement outside the subject premises to delineate the approved Outdoor Seating Zone in accordance with specifications identified in Condition E12 and the plans shown on the Outdoor Dining Approval Certificate.

**E11 Outdoor Dining Approval Certificate**

The Outdoor Dining Approval Certificate shall be prominently displayed in a conspicuous and easily accessible place within the tenancy. All outdoor dining seating arrangements shall be strictly in accordance with the illustrated diagram shown on the Certificate. Should outdoor dining arrangement need to be change, a new plan reflecting the new arrangement shall be submitted to the Authority for consideration.

**E12 Outdoor Dining (Elements)**

Outdoor elements must be in accordance with the following design specifications:

| <b>Outdoor Elements Specifications</b> |  |
|--|--|
| <b>Markers</b>                         |  |
| Style:                                 | <p>All approved seating area(s) for commercial outdoor dining are required to be delineated by pavement markers. The corners of approved areas are to be delineated by 3 pavement markers (stainless steel metal studs), one fixed in the corner of the boundary and the other two pointing to the opposite boundaries, (see photograph below).</p> <p>The markers must remain in place throughout the duration of the approval, and all furniture must be kept strictly within the boundaries of the approved seating area.</p> |
| Example:                               |  <p><i>Tactile indicators used to define corner of lease area</i></p>   |

| Outdoor Elements Specifications |  |
|---------------------------------|--|
| Heating                         |  |
| Style:                          | <p>The use of freestanding heaters is permitted provided that:</p> <ol style="list-style-type: none"> <li>1. They do not interfere with pedestrian circulation.</li> <li>2. Numbers are minimized through selection of models with greater coverage.</li> <li>3. Heaters are stainless steel finish.</li> <li>4. Heaters of high quality and suitable for restaurant purposes.</li> <li>5. Are located wholly within the seating zone.</li> </ol> <p>Consideration should also be given to the use of shorter column heaters to minimise visual impact in public spaces.</p> |

### E13 Outdoor Dining (Operation)

The following conditions apply to the operation of the outdoor dining area:

1. The use of outdoor dining is only permitted in conjunction with the provision of a simultaneous food service from the approved Cafe.
2. Should the proprietor of the premises change at any time to a new retail business, a new Commercial Outdoor Dining Licence and Outdoor Dining Approval Certificate is required to be approved/issued by the Sydney Olympic Park Authority under the name of the new proprietor for outdoor dining.
3. The proprietor of the premises is solely responsible for any personal injury claims arising from the use of outdoor dining.
4. The use of outdoor dining may be suspended to facilitate Major Events, or for road and service works. No claim for compensation is entitled under such circumstances unless agreed to by Sydney Olympic Park Authority.
5. All furniture must be stackable or folded at the end of each trading day and stored in a furniture storage area inside the tenancy.
6. Portable signs or goods for sale/display must not be placed on the footway or other public areas.
7. All outdoor furniture and pavement are to be kept hygienically clean and free of food scraps.
8. All outdoor furniture must at all times be maintained in a physically sound and aesthetically acceptable condition.
9. Any umbrellas are to be located within the extent of the tenancy leased area and/or the licensed public space.
10. Umbrellas are to not encroach on or interfere with pedestrian or vehicle movement.



11. Umbrellas are to be removed or closed during extremely windy conditions and must be removed when the outdoor seating area is not in use.
12. The uses of umbrellas are not permitted in areas where cover is provided by a building awning or the like.
13. Heater storage is subject to the following conditions:
  - a. Heaters must be removed and securely stored inside the restaurant at the end of each day's trade.
  - b. Heaters must be stored away from public view and the public domain (i.e. public viewing areas at the front of the premises) during summer months.
  - c. Spare gas tanks or gas cylinders must be stored away from public view and the public domain (i.e. public viewing areas at the front of the premises and outside the amenity blocks) at all times.
14. The proprietor is wholly responsible for the maintenance and safe usage of heaters and must do so in accordance with the *Occupational Health and Safety Act 2000*. The storage gas shall be in accordance with the current requirements of the AS/NZS 1596 - 2002 "*Storage and Handling of LP Gas*", and AS 4332 – 2004 "*The storage and handling of gases in cylinders*".
15. Heaters must be used to the manufacturer's specifications and are to be kept from any overhanging structures at the minimum distance specified in the specifications.
16. The tenancy's Emergency Management Plan is to include the usage of the heaters to maintain fire and life safety requirements for patrons.
17. The proprietor is to comply with any direction or order issued from Sydney Olympic Park Authority in regard to outdoor dining conditions, including but not limited to, the safe usage of seating and maintenance of accessibility and pedestrian circulation zones.

Note: The approved use of outdoor dining may be revoked at any time by Sydney Olympic Park Authority if the operation of outdoor seating is not carried out in a satisfactory manner.

#### **E14 Food and Liquid Waste**

Suitably constructed waste disposal containers with secure fittings must be kept on the property for the storage of any food and liquid waste prior to final disposal.

#### **E15 No Obstruction of Public Way**

The public way and road reserve must not be obstructed by any materials, vehicles, refuse, skips, signs or the like, under any circumstances unless in accordance with a Works Permit or development consent. Non-compliance with this requirement will result in the issue of a notice by the Authority to stop **all** work on the site or penalty infringements.

**Note:** further information on Work Permits can be obtained from [www.sydneyolympicpark.com.au](http://www.sydneyolympicpark.com.au).

**E16 No 3<sup>rd</sup> party advertising or shop product promotional display on shop front windows**

The shop front window is to remain free of any 3<sup>rd</sup> party advertising and shop product promotional displays.

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END OF CONSENT