



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.



Alan Marsh

**Chief Executive Officer
Sydney Olympic Park Authority**

Date: 18-11-2015

SCHEDULE 1

Development Application:	DA 14-10-2015
Application made by:	Dennis Tang – Creative Nine P/L
To:	Sydney Olympic Park Authority
In respect of:	Lots 3-5, SP 92314, Shops 18-20, Tower D, No. 3 Australia Avenue, Sydney Olympic Park
For the following:	Alterations and additions, signage and use of the Ground Floor premise (Shops 18-20) as a Licensed Restaurant (This is Thai) with outdoor seating
Determination:	Consent granted subject to the conditions in the attached Schedule 2
Date of commencement of consent	This development consent commences on the date identified in the formal notification letter accompanying the Notice of Determination
Advisory Notes	<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 Environmental Planning and Assessment Act 1979, and the Environmental Planning and Assessment Regulations 2000 (as amended)</p>

SCHEDULE 2

**CONDITIONS OF CONSENT
DEVELOPMENT APPLICATION NO. 14-10-2015**

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.

These conditions of this consent do not relieve the proponent of its obligations under the *Environmental Planning and Assessment Act 1979*, and any other Act.

A2 Development in accordance with Plans

The development shall be generally in accordance with the supporting documentation submitted with that application, including, but not limited to, the following:

Statement of Environmental Effects & Plan of Management titled ‘This is Thai’ dated October 2015

Stamped Plans by Creative Nine, Project titled ‘This is Thai’, dated 08/09/2015
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except for:

1. any modifications which are ‘Exempt and Complying Development’ as identified in the relevant State Environmental Planning Policy (SEPP) or as may be necessary for the purpose of compliance with the Building Code of Australia (BCA) and any Australian Standard (AS) incorporated in the BCA;
2. otherwise provided by the Conditions of this Consent;
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 Lapsing of Consent

This consent will lapse five (5) years from the date of this consent unless the development has physically commenced.

A5 Prescribed Conditions

The Proponent shall comply with the relevant prescribed conditions of development consent under Clause 98 of the *Environmental Planning and Assessment Regulations 2000*.



A6 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 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 AS 1428.1 and SOPA's *Access Guidelines 2015*.

B4 Business Identification Signage

Prior to issuing a Construction Certificate, the Principal Certifying Authority shall be satisfied that the signage is consistent with the Authority's *Guidelines for Outdoor Advertising, Identification and Promotional Signage (October 2002)* and the approved plans.

B5 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.sydneolympicpark.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.sydneolympicpark.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. 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. 8.00am to 3.00pm on Saturdays
3. No work on Sundays and Public Holidays (except with the prior written consent of SOPA's General Manager – Operations and Sustainability).

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 Outdoor Dining Public Risks Insurance

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall be satisfied that the proprietor has obtained 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.

D4 Outdoor Dining Licence

The proprietor shall obtain a Commercial Outdoor Dining Licence from the Sydney Olympic Park Authority for the purpose of leasing any **public domain area** (i.e. outside the property boundaries) required for the restaurant's outdoor dining, prior to using the area for Outdoor Dining / Seating area within any public domain area.

D5 Delineation of Outdoor Dining Zone

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall be satisfied that pavement markers have been installed on the pavement outside the subject premises to delineate the approved Outdoor Seating Zone in accordance with specifications identified in Condition E10 and the plans shown on the Outdoor Dining Approval Certificate (if outdoor dining is proposed within **public domain area**).

D6 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.

D7 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 (Auburn 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 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.

E3 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 or pedestrian function or amenity.

E4 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 base building's waste storage room.

E5 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*.

E6 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.

E7 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.

E8 No 3rd party advertising or shop product promotional display on shop front windows


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


E9 Outdoor Dining Approval Certificate

The Outdoor Dining Approval Certificate (if outdoor dining is proposed within **public domain area**) 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.

E10 Outdoor Dining (Elements)

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

Outdoor Elements Specifications	
Markers	
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>
Heating	
Style:	<p>The use of freestanding heaters is permitted provided that:</p> <ol style="list-style-type: none"> 1. They do not interfere with pedestrian circulation. 2. Numbers are minimized through selection of models with greater coverage.

Outdoor Elements Specifications	
	<p>3. Heaters are stainless steel finish.</p> <p>4. Heaters of high quality and suitable for restaurant purposes.</p> <p>5. Are located wholly within the seating zone.</p> <p>Consideration should also be given to the use of shorter column heaters to minimise visual impact in public spaces.</p>
Example:	

E11 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 retail use.
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 from the Sydney Olympic Park Authority is required (if outdoor dining is proposed within **public domain area**), 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. 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. Use of heaters may only occur during winter months (from May to October) and stored away from public view during summer months (from November to April).
14. 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.
15. 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"*.
16. 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.
17. The tenancy's Emergency Management Plan is to include the usage of the heaters to maintain fire and life safety requirements for patrons.
18. 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.



E12 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.

E13 Standard Hours of Operation

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

DAY	START	FINISH
Monday - Sunday	7:00am	11:00pm

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.

ADVISORY NOTES

The following general advisory notes are provided by the NSW Police – Flemington LAC:

1. Business Identification

To assist emergency services to locate the business, the street number should be clearly displayed at the front of the premises.

2. Hold Up / Duress alarm

Police recommend a panic or duress alarm to be located at the location. This would include either a duress alarm at the front counter of the shop area or in the manager's office. Panic and Duress alarm systems are designed to assist when a staff member feels threatened by a situation where responses are required. All panic, duress alarms can be customised to call relative services Police or patrol response or other nominated parties.

3. Internal Alarm System

Police recommend an internal alarm system to be included at the location. An alarm with motion detectors, reed switches and siren are designed to act as a deterrent and are very effective.