

MEMORANDUM



TO: Kim Holt – Planning Panel Secretariat

FROM: BHA (Brewster Hjorth Architects and Duncan Mitchell - Director of Engineering and Property Services

CC: Stephen Beattie – Manager Development Assessments – North Sydney Council
Lara Huckstepp – Executive Assessment Planner
Rob Emerson – Director of Open Space and Environmental Services
Ken Gouldthorp – General Manager –
Larry Melocco – Brewster Hjorth Architects
Ian Brewster – Brewster Hjorth Architects

DATE: 30 June 2020

RE: North Sydney Olympic Pool redevelopment – DA 347/19 – 4 Alfred Street Milson Point – Comments on Recommended Conditions for Development Consent - DA conditions

Attachments:

1. Letter from Director of Open Space and Environmental Services 22 June – Retention of 7 x Livistona Palms
2. Letter from Director of Engineering and Property Services – Pedestrian Access Ramp on Olympic Drive.

Dear Kim,

Please find attached and below our comments (Submission) on the draft Recommended Conditions for Development Consent for DA 347/19 – 4 Alfred Street Milson Point, North Sydney Olympic Pool.

As part of our submission we have prepared the following comments on the Recommended Conditions for Development Consent in particular conditions A2-A5 which are as follows:

Amendment to plans - Sundeck A2

A2. The sundeck shall extend across the roof of the kiosk kitchen to the southern wall of the pool complex with the roof of the kiosk located beneath the sundeck level. Revised plans showing this amendment are to be submitted to Council's Consultant Heritage Planner for approval prior to the release of the Construction Certificate.

(Reason: To maintain the heritage significance of the site)

Response / Comment: It is requested that this condition be deleted for the following reasons - BHA response.

The existing sundeck structure does not extend all of the way to the southern wall as there is currently an egress stair from the sundeck between the sundeck structure and the southern wall. The request for an extension goes beyond the current extent of the exiting Sundeck.

The new sundeck has been specifically designed so that it matches the extent (size, bulk and scale) of the existing Sundeck. There is no merit from an architectural or heritage point of view to extend the sundeck beyond what currently exists. In addition, the extension of the sundeck will result in the roof of the cafe kitchen needing to be lowered more than the current design.

This would result in the required storage mezzanine serving the cafe to be deleted as it could not be constructed in its proposed location – this would significantly impact upon the operations of the café and would require alternative storage to be found somewhere else in the pool facility. The cafe storage has been designed so that current (Existing) operational problems of the Café whereby staff have to access a remote storage area 15—20 meters away from the Café is avoided.

The design of the café has always considered the storage requirements for its operation which need to be integral – rather than separated. This mezzanine storage area replaces storage no longer available elsewhere on the site.

The brick parapets to the entire sundeck and southern wall are proposed to be retained and / or re-interpreted to the same extent as noted on the drawings.

There is no brick parapet to the western side of the sundeck and so none is proposed in the new design. The small nib wall attached to the southern wall adjacent the egress stair will be retained and the masking wall that cuts off the large glazed wall to the cafe kitchen will be removed.

The Design of the Cafe roof is an integral form combining the cafe kitchen and adjacent external seating areas. This design allows a compact building form to include the required supporting areas in a very tight space. As described previously it provides a simple form to house all of the functions / operations for the Cafe use under a single roof form. This roof form has already been modified a number of times to reduce its impact on the heritage wall elements in both height and extent.

Amendment to plans – Details of Entrance Lobby and Roof over Café Seating

A3. Developed details of the structure of the entrance lobby and the roof over the cafe seating at the south-eastern corner of the complex are to be provided to Council's Consultant Heritage Planner for approval prior to the release of the Construction Certificate.

(Reason: To maintain the heritage significance of the site)

Response: Agreed BHA will provide these details to Council's Consultant Heritage Planner for approval prior to the release of the Construction Certificate.

Amendment to plans – Retention of 7 x Livistona australis

A4. The 7 x Livistona australis located in the eastern corner of the site are to be retained. The plans and the Arboricultural Impact Assessment are to be updated to show the retention of these trees and are to be provided to Council's Landscape Officer for approval prior to the release of the Construction Certificate.

(Reason: To maintain the landscape amenity of the site)

Response: It is requested that this condition be amended for the following reasons.

The director of Open Space and Environmental Services has requested that these 7 x *Livistona australis* palms (Cabbage Tree Palms) not be retained on site and that they are transplanted into Olympic Boulevard to replace the 7 x *Phoenix canariensis* palms that are infected with a fungal disease *Fusarium oxysporum*. It is requested that this condition be amended to the following:

That the 7 x Livistona australis palms currently located at the south eastern end of the North Sydney Olympic Pool site be transplanted into Olympic Boulevard to replace the 7 x Phoenix canariensis palms which have been confirmed by North Sydney Councils arborists to be infected with a fungus disease Fusarium oxysporum.

The transplanting works for these palms and the removal of the existing Phoenix Palms should be undertaken as part of the North Sydney Pool redevelopment works.

Refer to letter attached from the Director of Open Space and Environmental Services

Amendment to plans – Pedestrian access ramp on Olympic Drive

A5. The proposed pedestrian access ramp on Olympic Drive is to be amended so that it terminates at its western end 4.5m to the east of its proposed position (i.e.: adjacent to the western end of the pool concourse). Amended plans are to be provided to Council's Manager Development Services for approval prior to the release of the Construction Certificate.

(Reason: To maintain vehicular access to Luna Park for oversized vehicles)

Response: It is requested that this condition be amended to the following

The proposed pedestrian access ramp on Olympic Drive is to be amended so that the profile at the end of the ramp is angled (Chamfered) at 45 degrees so that it falls within the wheel envelope of a 19m semi-trailer and does not impede access into and out of the gates to Luna Park adjacent to the western end of the pool concourse.

Amended plans are to be provided to Council's Manager Development Services for approval prior to the release of the Construction Certificate.

Refer to the letter attached from the Director of Engineering and Property Services.

A6- Plans on Site

(Documentation to be prepared by BHA – all subconsultants) - NSC - No comment

A7- No Demolition of Extra Fabric

(Documentation to be prepared by BHA) - NSC - No comment

A8- No Demolition of Extra Fabric

(Documentation to be prepared by BHA and Urbis) reconstruction of Western Stairs – Noted and NSC No comment

A9- External Finishes and Materials

(Documentation to be prepared by BHA – all subconsultants) NSC No comment

B- Matters that must be completed before Lodgment of a Construction Certificate -CC

B- Construction and Traffic Management Plan – CTMP must be prepared prior to CC –

(Documentation to be prepared by BHA – Traffic Engineering subconsultants) Noted and NSC No comment

Conditions (a)- (b) – (c) about CTMP – (Documentation to be prepared by BHA – Traffic Engineering subconsultants) Noted and NSC No comment

Condition (d) – Waste Management Plan - (Documentation to be prepared by BHA) Noted and NSC No comment

Conditions (e)- (f) – (g) about CTMP – (Documentation to be prepared by BHA – Traffic Engineering subconsultants) Noted and NSC No comment

Conditions (h) - about Luna Park being consulted on the development of a CTMP – (North Sydney Council and BHA will consult with Luna Park. Noted

C- Matters that must be completed before Lodgment of a Construction Certificate -CC

C1- Schedule of Conservation Works

Prior to the issue of CC, a Schedule of conservation works is to be prepared.

(Documentation to be prepared by BHA – Heritage subconsultants – Urbis) - Noted and NSC No comment

(Reason: To maintain the heritage significance of the site and area)

C2- **Salvage Report** – Preparation of a salvage Methodology Report prepared and approved by Councils Heritage Planner - prior to CC –

(Documentation to be prepared by BHA – Heritage subconsultants – Urbis) - Noted and NSC No comment

(Reason: To maintain the heritage significance of the site and area)

C3- Moveable Heritage

The extensive memorabilia collection at NSOP is to be displayed in an engaging manner in an appropriate location with good public access to help explain the historic association with place. The location of the collection display *should* be indicated on the CC.

(Documentation to be prepared by BHA – Heritage subconsultants – Urbis) - Noted and NSC No comment

(Reason: To maintain the heritage significance of the site and area)

C4- Interpretation Plan

Should be prepared prior to CC – Plan must be approved by Councils Heritage Planner. Plan must be implemented prior to OC.

(Documentation to be prepared – a Heritage Specialist TBA) - Noted and NSC No comment

(Reason: *To maintain the heritage significance of the site and area*)

C5- Archival Recording.

Full Photographic Record of the site is to be undertaken *prior to any works commencing on site.*

(NSC will engage a suitably qualified photographer to archivally record the site in accordance with this condition. Noted)

(Reason: *To maintain the heritage significance of the site and area*)

C6- Heritage Architect to be Commissioned.

A suitably qualified heritage architect is to be commissioned to provide detail heritage advice to the project for its duration. Written evidence to support the commissioning of a Heritage Architect is to be provided at CC. Noted.

(Reason: *To maintain the heritage significance of the site and area*)

C7- Interpretation of the original Leisure (Children's Pool).

The location size and shape of the original leisure or children's pool is to be interpreted into the new leisure / learn to swim pool through the use of tiling similar to the tiles of the existing children's pool. To be supported by supplementary interpretive material.

(Documentation to satisfy this condition to be prepared by BHA – Acoustic subconsultants) Noted and NSC No comment

(Reason: *To maintain the heritage significance of the site and area*)

C8- Noise Mitigation Measures.

Noise mitigation measures as set out in the acoustic report (Table 4) must be implemented.

(Documentation to satisfy this condition to be prepared by BHA – Acoustic subconsultants) Noted and NSC No comment

(Reason: *To satisfy the requirements of the NSW EPA*)

C9- Patron Noise Management Plan.

A patron Noised Management Plan to be prepared prior to CC.

(Documentation to satisfy this condition to be prepared by BHA – Acoustic subconsultants) Noted and NSC No comment

(Reason: *To satisfy the requirements of the NSW EPA*)

C10- Site contamination and remediation.

A Construction Environmental Management Plan – Remediation Plan (CEMP) - shall be drawn up by a suitably qualified consultant.

(The documentation to satisfy this condition will be requested as part of the construction tender and is already included in Councils standard construction contracts. Noted.

(Reason: To ensure the site is suitable for the proposed use)

C11- Noise from Plant and Equipment.

Councils standard conditions of contract (Construction Contracts) also cover this requirement. Noted and NSC No comment

C12- Vibration from Plant and Equipment.

A certificate from a qualified acoustic consultant must be submitted to the certifying authority (PCA).

Councils standard conditions of contract (Construction Contracts) also cover this requirement.

This will be done prior to commencing construction and when Council knows from the successful tenderer what equipment they intend to use to build the project. Noted and NSC No comment

(Reason: To maintain an appropriate level of amenity for adjoining land uses)

C13- Noise Control Fitness Centers.

The premises shall comply with C13 Noise Control conditions (a) (b) (c) (d) (e).

Details demonstrating the facility will be able to meet these conditions shall be submitted to the satisfaction of the PCA prior to issuing CC.

(Documentation to satisfy this condition to be prepared by BHA – Acoustic subconsultants)

Noted and NSC No comment

(Reason: To maintain an appropriate level of amenity for adjoining land uses)

C14- Compliance with the Acoustic Report.

The recommendations contained within the acoustic report prepared by Marshall Day Acoustics dated 29/10/19 must be implemented during construction and use of the development.

A Statement from an appropriately qualified consultant certifying that the mitigation measures outlined in the report have been suitable incorporated into the development and relevant noise criteria have been satisfied must be submitted to the PCA for approval – prior to the issue of any CC.

(Documentation to satisfy this condition to be prepared by BHA – Acoustic subconsultants)

Noted and NSC No comment

(Reason: To maintain an appropriate level of amenity for adjoining land uses)

C15- Tree Protection.

Ensure the protection of all trees to be retained, the following measures are to be undertaken.

The contractor undertaking the works shall ensure conditions (a) (b) (c) (d) (e) and (f) are undertaken – including engaging a suitably qualified Arboriculturist) The Project arboriculturist)

These conditions will be incorporated into the construction contract. Noted and NSC No comment

(Reason: Tree protection, measures)

C16- Tree Protection. (7 x Phoenix canariensis palms – Olympic Boulevard)

The protection of the 7 x Phoenix canariensis palms on Olympic Boulevard.

Response: It is requested that this condition be amended for the following reasons.

The director of Open Space and Environmental Services has requested that these 7 x Livistona australis palms (Cabbage Tree Palms) not be retained on site and that they are transplanted into Olympic Boulevard to replace the 7 x Phoenix palms that are infected with a fungal disease *Fusarium oxysporum*. It is requested that this condition be amended to the following:

That the 7 x Livistona australis palms currently located at the south eastern end of the North Sydney Olympic Pool site be transplanted into Olympic Boulevard to replace the 7 x Phoenix canariensis palms which have been confirmed by North Sydney Councils arborists to be infected with a fungus disease Fusarium oxysporum.

The transplanting works for these palms and the removal of the existing Phoenix Palms should be undertaken as part of the North Sydney Pool redevelopment works.

Refer to letter attached from the Director of Open Space and Environmental Services

(Reason: Tree protection, measures)

C17- Tree Protection measures to be shown on construction drawings.

The tree protection measures contained in the arborist report prepared by Earthscape Horticultural Services and received by Council on 31/10/2019 shall be shown clearly on the CC Drawings. Plans and specifications must be submitted for approval prior to the issue of CC.

Refer to response above on C16 and Documentation to satisfy this condition to be prepared by BHA – Landscape subconsultants - Urbis) Noted and NSC No comment

(Reason: to ensure appropriate tree protection measures are shown on construction drawings.)

C18- Protection of trees.

The trees identified in this table are to be protected and retained as part of the Development consent.

Documentation to satisfy this condition to be prepared by BHA – Landscape subconsultants - Urbis) Noted and NSC No comment

(Reason: Protection of existing environmental and community assets.)

C19- Approval for removal of trees.

The trees identified in this table are to be removed in accordance with the Development consent.

Documentation to satisfy this condition to be prepared by BHA – Landscape subconsultants - Urbis) Noted and NSC No comment

(Reason: Protection of existing environmental and community assets.)

C20- Amendments to the Landscape Plan.

The landscape plan must be amended as follows to provide an appropriate landscaped setting:

- a) Redesign and reduce the size of the proposed Learn to swim/Leisure Pool/Splash Pool structure and surrounds to allow for the retention of T4-T10 *Livistona australis* (6-8m), and the adjacent natural lawn area and minimise impact on T11 & T12 *Phoenix canariensis*. Refer to letter attached from the Director of Open Space and Environmental Services and response to C16.
- b) Relocate bin enclosure outside the TPZ of T12 *Phoenix canariensis*. Noted – BHA to respond.
- c) Relocate the site office & storage area shown on Figure 3 of the Draft Construction Management Plan prepared by Brewster Hjorth received by council on 31/10/19 outside the TPZ of any trees to be protected. The location of the site office and storage shed will be amended once Council has engaged a builder to undertake the redevelopment of the Pool and the construction methodology on how to build the pool is known.

An amended landscape plan complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate

Noted and Refer to letter attached from the Director of Open Space and Environmental Services and response to C16 and also notes above.

(Reason: to ensure residential amenity)

C21- Waste Management Plan

A Waste Management Plan is to be submitted for approval by the PCA prior to the issue of CC.

(Documentation to satisfy this condition to be prepared by BHA)

Noted and NSC No comment

C22- Garbage and Recycling facilities

An appropriate area must be provided within the premises for the storage of garbage bins and recycling containers and all waste and recyclable material generated by this premises. The following requirements must be met: (a) (b) (c) (d) (e) and (f)

Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

Note: The applicant may wish to discuss bin storage requirements and location with Council's Environmental Services prior to finalisation of the required detail, and a copy of Council's Waste Handling Guide should be obtained for reference purposes before the design is finalised.

(Reason: To ensure the provision of appropriate waste facilities for residents and protect community health, and to ensure efficient collection of waste by collection contractors)

(Documentation to satisfy this condition to be prepared by BHA). Noted and NSC No comment

C23- Dilapidation Report Damage to Public Infrastructure.

A copy of the dilapidation survey and report must be lodged with North Sydney Council by the Certifying Authority with submission of the Construction Certificate documentation.

(Documentation to satisfy this condition to be prepared by BHA)

Noted and NSC No comment

(Reason: To record the condition of public infrastructure prior to the commencement of construction)

C24- Dilapidation Report Private Property – Excavation.

A full dilapidation survey and report on the visible and structural condition of all neighboring structures within the 'zone of influence' of the required excavations must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The zone of influence is to be defined as the horizontal distance from the edge of the excavation face to twice the excavation depth.

The dilapidation report and survey are to be prepared by a consulting structural/geotechnical engineer agreed to by both the applicant and the owner of any affected adjoining property.

(Documentation to satisfy this condition to be prepared by NSC – A specialist consultant will be engaged). Noted.

(Reason: To record the condition of property/ies prior to the commencement of construction)

C25- Dilapidation Report Private Property – Neighbouring Buildings.

A photographic survey and dilapidation report of adjoining properties No's. 20 Alfred Street, Milsons Point, 1 Northcliff Street, Milsons Point, and Luna Park (1 Olympic Drive, Milsons Point) detailing the physical condition of those properties, both internally and externally, including, but not limited to, such items as walls, ceilings, roof, structural members and other similar items, SHALL BE submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The survey and report are to be prepared by an appropriately qualified person agreed to by both the applicant and the owner of the adjoining property. A copy of the report is to be provided to Council,

if Council is not the Certifying Authority, prior to the issue of any Construction Certificate.

The following requirements must be met: (a) (b) (c) (d) (e) and (f)

All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent.

(Documentation to satisfy this condition to be prepared by NSC – A specialist consultant will be engaged). Noted.

(Reason: *To record the condition of property/ies prior to the commencement of construction*)

C26- Sediment Control

Where construction or excavation activity requires the disturbance of the soil surface or existing vegetation, erosion and sediment control techniques, as a minimum, are to be in accordance with the publication Managing Urban Stormwater: Soils & Construction (4th edition, Landcom, 2004) commonly referred to as the “Blue Book” or a suitable and effective alternative method.

A Sediment Control Plan must be prepared and submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate and prior to any works commencing. The Sediment Control Plan must be consistent with the Blue Book and disclose

The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Documentation to satisfy this condition to be prepared by BHA)

Noted and NSC No comment

(Reason: *To protect the environment from the effects of sedimentation and erosion from development sites*)

C27- Work Zone

If a Work Zone is proposed, an application must be made to the North Sydney Local Traffic Committee to install the ‘Work Zone’. A Work Zone permit is required to be issued by the Council prior to the issue of any Construction Certificate.

Work Zones are provided specifically for the set down and pick up of materials and not for the parking of private vehicles associated with the site. Works Zones will generally not be approved where there is sufficient space on-site for the setting down and picking up of goods being taken to or from a construction site. If the Works Zone is approved by the Committee, the Applicant must obtain a written copy of the related resolution from the North Sydney Local Traffic Committee and submit a copy of this to the Certifying Authority to enable issue of the Construction Certificate.

Noted - A work zone application will be submitted when Council has engaged a contractor to undertake the works and the requirements of where Works Zones are to be located is known.

(Reason: *Amenity and convenience during construction*)

C28- Parking Meter – Re-location

Where metered parking is located adjacent to the site, Council will require the removal/relocation of existing parking meter and associated meter infrastructure.

The Certifying Authority must ensure that the specifications submitted, accompanying the issued Construction Certificate fully satisfy this condition.

Noted and NSC No comment

(Reason: *To ensure the proper management of public land and funds*)

C29- Required Infrastructure Works – Road Act

Prior to issue of any Construction Certificate engineering design plans and specifications must be prepared by a qualified civil design engineer. The plans and specifications must be to a detail suitable for construction issue purposes and must provide detail and specification for the following infrastructure works to be completed as part of the development. To obtain the permit, an application must be made to Council on a 'Application to satisfy development consent' form with payment of the adopted assessment/inspection fees. The responsibility for accuracy of the design fully rests with the designing engineer. All responsibility on implementation and supervision of works specified on design plans fully rest on designing engineer or whoever is chosen to be applicant's engineering representative:

Note: *A minimum of 21 days will be required for Council to assess Roads Act submissions. Early submission is recommended to avoid any delays in obtaining a Construction Certificate. A fee to cover cost of assessment (set out in Council's adopted fees and charges) is payable and Council will withhold any consent and approved plans until full payment of the correct fees. Plans and specifications must be marked to the attention of Council's Development Engineers. In addition, a copy of this condition must be provided, together with a covering letter stating the full address of the property and the accompanying DA number.*

(Documentation to satisfy this condition to be prepared by BHA and Motts – Design Engineers)

Noted and NSC No comment

(Reason: *To ensure infrastructure works are designed and constructed to appropriate standards and requirements of the Roads Act 1993*)

C30 Stormwater Management and Disposal Design Plan – Construct. Issue

Prior to issue of the Construction Certificate, the applicant shall have a site drainage management plan prepared by a qualified drainage design engineer. The site drainage management plan must detail the following requirements of North Sydney Council. (a) (b) (c) (d) (e) (f) (g) (h).

The Certifying Authority issuing the Construction Certificate must ensure that the approved drainage

plan and specifications, satisfying the requirements of this condition, is referenced on and accompanies the Construction Certificate.

(Documentation to satisfy this condition to be prepared by BHA and Motts – Design Engineers)

Noted and NSC No comment

(Reason – To ensure controlled stormwater management and disposal without nuisance)

Bond for Damage and Completion of Infrastructure Works – Stormwater, Kerb and Gutter, Footpaths, Vehicular Crossing and Road Pavement

Prior to the issue of any Construction Certificate, the certifying authority shall be satisfied that appropriate contractual arrangements have been provided or will be provided between the Council and the contracted builder which secures the following. (a) (b) (c).

Noted. Requirements for Bonds and securities for the Project will form part of the construction contract as discussed with the Manager of Development Assessments previously. This is standard practice for all NSC construction contracts.

C31- Construction Noise Management Plan

A Construction Noise Management Plan must be prepared by an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants, and must include the following: (a) (b) (c) (d) (e) (f) (g) (h) (i) (j) (k)

The Construction Noise Management Plan and must be submitted to the Principal Certifying Authority and a copy provided to Council **prior** to the issue of the Construction Certificate.

(Documentation to satisfy this condition to be prepared by BHA and the Acoustic sub consultants)

Noted and NSC No comment

(Reason: To ensure noise generating activities are appropriately managed and nearby sensitive receivers protected)

C32- Provision of Accessible Paths of Travel.

The building must be designed and constructed to provide access and facilities in accordance with the Building Code of Australia and Disability (Access to Premises – Buildings) Standards 2010. Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate fully satisfy the requirements of this condition.

(Documentation to satisfy this condition to be prepared by BHA and the Acoustic sub consultants)

Noted and NSC No comment

(Reason: *To ensure the provision of equitable and dignified access for all people in accordance with disability discrimination legislation and relevant Australian Standards*)

C32- Provision of Accessible Paths of Travel.

Section 73 Certificate

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water.

It is recommended that applicants apply early for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.

Application can be made through an authorised Water Servicing Coordinator.

Noted and NSC No comment

(Reason: *Compliance with Sydney Water requirements*).

D. Prior to the Commencement of any Works (and continuing where indicated)

D1. Heritage Site Induction

Before any works commence on site, all contractors and subcontractors shall undergo an induction session, prepared and delivered by a suitable heritage consultant, highlighting the historical significance of the site and in particular those building elements and archaeology requiring conservation.

Noted – will be organised through the contractor Council engages to do the redevelopment of the Pool – this condition will be included in the General Conditions of Contract for the Project.

(Reason: *To maintain the heritage significance of the site and the area*)

D2. Commencement of Works Notice

Building work, demolition or excavation in accordance with this development consent must not be commenced until the developer has given at least 2 days' notice to North Sydney Council of the person's intention to commence building work, demolition or excavation in accordance with this development consent.

Noted – will be organised through the contractor Council engages to do the redevelopment of the Pool – this condition will be included in the General Conditions of Contract for the Project.

(Reason: *To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation*)

D3 Public Liability Insurance – Works on Public Land

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of public land and the undertaking of approved works within Council's road reserve or public land, as approved by this consent. The Policy

is to note and provide protection/full indemnification for North Sydney Council, as an interested party. A copy of the Policy must be submitted to Council prior to commencement of any works. The Policy must be valid for the entire period that the works are being undertaken.

Noted – will be organised through the contractor Council engages to do the redevelopment of the Pool – this condition will be included in the General Conditions of Contract for the Project.

(Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land)

D4 Proximity to Existing Ausgrid Network Assets – Underground Cables

There are existing underground electricity network assets in Alfred Street South, Milsons Point.

Special care should also be taken to ensure that driveways and any other construction activities within the footpath area do not interfere with the existing cables in the footpath. Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed. Hence it is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area.

Should ground anchors be required in the vicinity of the underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable.

Safework Australia – Excavation Code of Practice, and Ausgrid’s Network Standard NS156 outlines the minimum requirements for working around Ausgrid’s underground cables.

Noted – This will be the responsibility of the contractor Council engages to do the redevelopment of the Pool – this condition will be included in the General Conditions of Contract for the Project.

(Reason: Compliance with Ausgrid requirements.)

D5 Department of Primary Industries requirements

If it is deemed necessary to install reinforcement below the stormwater outfall (such as a rock apron) to prevent scouring of the seabed by increased stormwater discharge, then a Part 7 permit for reclamation will be required under the FM Act. If this is the case, the proponent must apply for and obtain a Part 7 permit from DPI Fisheries prior to any works on site. Permit application forms are available from the DPI Fisheries website at: <http://www.dpi.nsw.gov.au/fisheries/habitat/help/permit>.

Noted – This will be the responsibility of the contractor Council engages to do the redevelopment of the Pool – this condition will be included in the General Conditions of Contract for the Project.

(Reason: Compliance with requirements of NSW Department of Primary Industries.)

D6 Department of Primary Industries requirements

Environmental safeguards (silt curtains, booms etc.) are to be used during construction to ensure that there is no escape of turbid plumes into the aquatic environment. Turbid plumes have the potential to smother aquatic vegetation and have a deleterious effect on benthic organisms.

Noted – This will be the responsibility of the contractor Council engages to do the redevelopment of the Pool – this condition will be included in the General Conditions of Contract for the Project.

(Reason: *Compliance with requirements of NSW Department of Primary Industries.*)

D7 Protection of Trees

All trees that are specifically nominated to be retained by notation on plans or by condition as a requirement of this consent must be maintained and protected during demolition, excavation and construction on the site in accordance with AS4970-2009 (Protection of trees on development sites). A report containing recommendations, and methods of tree protection prepared by an appropriately qualified person must be provided to the Certifying Authority for approval by an appropriately qualified person prior to commencement of any works on the site. Any recommendations must be undertaken for the duration of works on the site.

Noted – This will be the responsibility of the contractor Council engages to do the redevelopment of the Pool – this condition will be included in the General Conditions of Contract for the Project.

(Reason: *To ensure compliance with the requirement to retain significant planting on the site*)

D8 - Protection of Trees

The tree protection measures detailed in the approved Tree Protection and Management Plan, and as directed by the project arboriculturist shall be established before work commences.

Noted – This will be the responsibility of the contractor Council engages to do the redevelopment of the Pool – this condition will be included in the General Conditions of Contract for the Project.

(Reason: *To ensure that the stability and ongoing viability of trees being retained are not compromised Tree protection measures*)

D9 Project Arborist Engaged

The project arboriculturist shall inspect tree protection measures and certify in writing to the Principal Certifying Authority the measures comply with the approved Tree Protection Plan and as directed by the project arboriculturist before work commences.

Noted – This will be the responsibility of the contractor Council engages to do the redevelopment of the Pool – this condition will be included in the General Conditions of Contract for the Project.

(Reason: *Tree protection measures*)

D10 Protection of Public Trees

The following tree(s) are required to be protected and retained as part of the development consent in accordance with AS 4970-2009 – Protection of trees on development sites:

Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued

Construction Certificate, fully satisfy the requirements of this condition.

Noted – This will be the responsibility of the contractor Council engages to do the redevelopment of the Pool – this condition will be included in the General Conditions of Contract for the Project.

(Reason: Protection of existing environmental and community assets)

D11 Temporary Fences and Tree Protection

All protected trees on-site that are specifically nominated as per condition **Error! Reference source not found.** to be retained by notation on plans or by condition as a requirement of this consent must be tagged with luminous tape or the like for purposes of identification prior to demolition, excavation or construction works and must remain so for the duration of works on the site. No materials or builder's waste are to be stored in the vicinity of the nominated tree/trees at any time.

Appropriate fencing or barricades in accordance with AS4970-2009 (Protection of trees on development sites), not less than the distance shown in the schedule hereunder, must be installed to the satisfaction of the Certifying Authority prior to demolition or commencement of any works and must be maintained for the duration of the works:

Noted – This will be the responsibility of the contractor Council engages to do the redevelopment of the Pool – this condition will be included in the General Conditions of Contract for the Project.

(Reason: To protect the trees to be retained on the site during construction works)

D12 Public Liability Insurance – Works on Public Land

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of public land.

Noted – This will be the responsibility of the contractor Council engages to do the redevelopment of the Pool – this condition will be included in the General Conditions of Contract for the Project.

(Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land)

E. During Demolition and Building Work

E1 Reuse of polychrome brickwork

All original polychrome brickwork that is removed during the course of the works should be reused in the reconstruction of areas of the eastern wall, such as the sundeck and colonnade. If new brickwork is required for the reconstruction or repair of original brick elements, the bricks should closely match the original polychrome bricks in terms of size, finish and colours.

Noted – This will be the responsibility of the contractor Council engages to do the redevelopment of the Pool – this condition will be included in the General Conditions of Contract for the Project.

(Reason: To maintain the heritage significance of the site and the area)

E2 Temporary Fencing and Luna Park

Construction fencing is to be installed such that it does not unreasonably interfere with vehicular and pedestrian access to Luna Park.

Noted – This will be the responsibility of the contractor Council engages to do the redevelopment of the Pool – this condition will be included in the General Conditions of Contract for the Project.

(Reason: To maintain public access to Luna Park)

E3 Hazardous Building Materials

The Methodology and Recommendations of the Hazardous Building Materials Survey by Property Risk Australia Pty Ltd and submitted to Council on 30 October 2019 are to be implemented.

Noted – This will be the responsibility of the contractor Council engages to do the redevelopment of the Pool – this condition will be included in the General Conditions of Contract for the Project.

(Reason: To maintain public health and ensure appropriate handling and disposal of hazardous building materials)

E4 Cigarette Butt Receptacle

A cigarette butt receptacle is to be provided on the site for the duration of excavation/demolition/construction process, for convenient use of site workers.

Noted – This will be the responsibility of the contractor Council engages to do the redevelopment of the Pool – this condition will be included in the General Conditions of Contract for the Project.

(Reason: To ensure adequate provision is made for builders' waste)

E5 Re-use of Sandstone

Sandstone blocks (if any) removed from the site are to be either stored for re-use on site or offered to Council in the first instance. Note: The provisions of the Heritage Act may also apply to altering any sandstone elements on any site)

Noted – This will be the responsibility of the contractor Council engages to do the redevelopment of the Pool – this condition will be included in the General Conditions of Contract for the Project.

(Reason: To allow for preservation of cultural resources within the North Sydney Council area)

Conditions

E6 Dust Emission and Air Quality

E7 Noise and Vibration

E8 Compliance with Construction Noise Management Plan E14

E9 No Work on Public Open Space

E10 No Removal of Trees on Public Property

E11. Protection of Trees

E12 Trees to be Removed

E13 Special Permits

- (a) On-street mobile plant**
- (b) Hoardings**
- (c) Storage of building materials and building waste containers (skips) on Council's property**
- (d) Kerbside restrictions, construction zones**
- (e) Noxious Plants**

E15 Construction Hours

E16 Parking RestrictionsE3

E17 Road Reserve Safety

E18 Service adjustments

E19 Out of Hours Work Permits

E20 Installation and Maintenance of Sediment Control

E21 Sediment and Erosion Control Signage

E22 Temporary Disposal of Stormwater Runoff

E23 Site Amenities and Facilities

E24 Health and Safety

E25 Community Information

E 26 Plant & Equipment Kept Within Site

E27 Council Inspection of Public Infrastructure Works

E28 Progress Survey

E29 Developer's Cost of Work on Council PropertyE16

E30 Prohibition on Use of Pavements

E31 No Pollution of Waters

E 32 Characterisation and Classification of Material Being Removed from Site

E 33 Unexpected Finds During Construction

E34 Asbestos Removal

E35 Demolition

Noted – Condition E1-36 will be the responsibility of the contractor Council engages to do the redevelopment of the Pool – these conditions will be included in the General Conditions of Contract for the Project.

F. Prescribed Conditions imposed under EP&A Act and Regulations and other relevant Legislation

F1. National Construction Code

F2. Appointment of a Principal Certifying Authority (PCA). Council has already engaged the PCA for the Project who is (Alex Mullins – Construction Certification Solutions) after going through an RFQ process.

F3. Construction Certificate

F4. Occupation Certificate

F6. Critical Stage Inspections

F7. Commencement of Works

F8 Protection of Public Places

F9. Site Sign

Noted – Condition E1-36 will be the responsibility of the contractor Council engages to do the redevelopment of the Pool – these conditions will be included in the General Conditions of Contract for the Project.

G. Prior to the Issue of an Occupation Certificate

G1 Waste Materials Report

G2 Validation of Remediation Works

G3 Damage to Adjoining Properties

G4 Asbestos Clearance Certificate

G5 Noise Certification

G6 Certification of Tree Condition

G7 Landscaping (To be completed on receipt of acceptable drawings)

G8 Infrastructure Repair and Completion of Works

G9 Certification- Civil Works

G10 Utility Services

Noted – Condition G1-10 will be the responsibility of the contractor Council engages to do the redevelopment of the Pool – these conditions will be included in the General Conditions of Contract for the Project and completed before OC.

G11 Hours of Operation

II. The hours of operation are restricted to:

Weekdays

Use	Open	Closed
Aquatics general	5.00am	11.00pm
Splash pad	9.00am	6.00pm
Aqua Dining	12.00pm	12.00am
Ripples Café	8.00am	12.00am
Upper level café internal	5.00am	12.00am
Upper level café external	7.00am	12.00am
Gym	5.00am	11.00pm
Upper level courtyard	7.00am	6.00pm

Weekends

Use	Open	Closed
Aquatics general	5.30am	8.00pm
Splash pad	9.00am	6.00pm
Aqua Dining	12.00pm	12.00am
Ripples Café	7.30am	12.00am
Upper level café internal	5.00am	12.00am
Upper level café external	7.00am	12.00am
Gym	5.00am	11.00pm
Upper level courtyard	8.00am	6.00pm

Upon expiry of the permitted hours:

- (a) all restaurant service (and entertainment) must immediately cease.
- (b) no person shall be permitted entry; and
- (c) all customers on the premises must be required to leave within the following half hour.

(Reason: to ensure that amenity of the surrounding locality is maintained, and hours of operation are consistent with those in surrounding locality)

G12 Hours of Operation – trial period I4

12. Notwithstanding Condition I1 above the approved use of the following facilities may operate for the following specified times for a trial period of twenty-four (24) months from the date of issue of the first Occupation Certificate, being interim or otherwise. Council must be informed in writing of the date of commencing the trial period.

Weekdays

Use	Open	Closed
Splash pad	9.00am	9.00pm
Upper level courtyard	7.00am	7.00pm??

Weekends

Use	Open	Closed
Splash pad	9.00am	8.00pm
Upper level courtyard	8.00am	8.00pm

In order for the above trial hours of operation to be confirmed as ongoing, a modification application must be lodged with Council prior to the expiration of the trial period. The assessment of the application to continue the use in accordance with the trial, will consider amongst other things, the impact of the use on surrounding areas the performance of the operation in relation to compliance with development consent conditions.

In the event that no modification application is lodged, or an application is not approved, then the hours of operation for the premises must revert to the standard hours of operation identified by this consent.

Note: Any person acting on this consent is advised that any modification application to the trial hours of operation period should be submitted to Council a minimum of thirty (30) days prior to the expiration of the trial period otherwise the trial period must lapse.

Noted – Condition G11

G13. Green Travel Plan

G14 No Pollution of Waters

G15 Travel Advice Web Page

G16 Noise and Vibration Impact

G17 Maintenance of Approved Landscaping

G18 Waste Collection

MEMORANDUM



Noted – Condition G13-18 will be the responsibility of Council and the contractor Council engages to do the redevelopment of the Pool – these conditions will be included in the General Conditions of Contract for the Project and completed before OC.

If you have any queries, please don't hesitate to contact me.

Yours Sincerely

A handwritten signature in black ink, appearing to read "Duncan Mitchell".

Duncan Mitchell
Director Engineering and Property Service

29/6/2020
Date

CC: Applicant – Brewster Hjorth Architects

Ian Brewster
Director – Brewster Hjorth Architects

29/6/2020
Date

Larry Melocco
Director – Brewster Hjorth Architects

29/6/2020
Date



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ABN 32 353 260 317

North Sydney Council
200 Miller Street
North Sydney NSW 2059

22 June 2020

Attention: Stephen Beattie – Manager- Development Assessments North Sydney Council

By email: stephen.beattie@northsydney.nsw.gov.com.au

RE: North Sydney Olympic Pool Redevelopment – Development Application DA347/19 – Proposed Amendment to plans – Retention of 7 x *Livistona australis*

Dear Stephen,

I have been asked to provide a comment and response to the following "Draft" Recommended Conditions of Development Consent for DA347/19 – 4 Alfred Street South, Milsons Point.

The condition that I have been requested to provide feedback on is

(a) Amendment to plans – Retention of 7 x *Livistona australis*

A4. The 7 x Livistona australis located in the eastern corner of the site are to be retained. The plans and the Arboricultural Impact Assessment are to be updated to show the retention of these trees and are to be provided to Council's Landscape Officer for approval prior to the release of the Construction Certificate.

(Reason: To maintain the landscape amenity of the site)

My preference is that these 7 x *Livistona* palms be transplanted into Olympic Boulevard to replace the 7 x *Phoenix canariensis* palms adjacent the pool. The avenue planting of *Phoenix* Palms that line the Sydney Harbour foreshore along Olympic Drive are infected with a fungus disease *Fusarium oxysporum* which is prevalent throughout metropolitan Sydney. Several of the palms within this avenue have already been removed due to them being significantly affected by the fungal disease. This fungus will potentially kill all the *Phoenix canariensis* palms along the foreshore and therefore they have already been identified to be replaced in Councils masterplan for the Bradfield Park South foreshore improvements 2018 with alternative palms *Livistona* spp that are believed to be not susceptible to the fungus.

The *Livistona* palms located nearby are perfect replacement as they are believed to be not susceptible to the fungus disease and they are already acclimatised to the sites harbour side

environment and prevailing conditions. In addition, transplanting the palms would be a relatively easy and cost-effective job to undertake because of the proximity of these palms and that palms that they are to replace on Olympic Boulevard.

It would also be an appropriate response from a cultural planting perspective as these palms will remain within proximity to the Pool site which I believe is the intent of this DA condition.

I therefore recommend that this condition be amended to read

That the 7 x Livistona australis palms currently located at the south eastern end of the North Sydney Olympic Pool site be transplanted into Olympic Boulevard to replace the 7 x Phoenix canariensis palms which have been confirmed by North Sydney Councils arborists to be vulnerable to the fungus disease Fusarium oxysporum.

The transplanting works for these palms and the removal of the existing Phoenix Palms should be undertaken as part of the North Sydney Pool redevelopment works.



7 x semi mature Livistona australis palms – proposed to be transplanted into Olympic Boulevard to replace the 7 x Phoenix canariensis palms that are infected with the fungal disease *Fusarium oxysporum*. Photo taken 22 June 2020



7 x Phoenix canariensis palms that are infected with the fungal disease *Fusarium oxysporum*. These are proposed to be replaced with the 7 x semi mature Livistona australis palms from the adjoining North Sydney Olympic Pool site. Photo taken 22 June 2020

If you have any queries, please do not hesitate to contact me.

Yours sincerely

Rob Emerson – Director of Open Space and Environmental Services

CC: Duncan Mitchell – Director of Engineering and Property Services



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22 June 2020

Attention: Stephen Beattie – Manager- Development Assessments North Sydney Council

By email: stephen.beattie@northsydney.nsw.gov.com.au

Prepared by Director of Engineering and Property Services

RE: North Sydney Olympic Pool Redevelopment – Development Application DA347/19 – Amendment to plans – Pedestrian access ramp on Olympic Drive

Dear Stephen,

Please consider my response and recommendation to the following “Draft” Recommended Conditions of Development Consent for DA347/19 – 4 Alfred Street South, Milsons Point.

The condition that I am providing you with feedback on is

(a) Amendment to plans – Pedestrian access ramp on Olympic Drive

A5. The proposed pedestrian access ramp on Olympic Drive is to be amended so that it terminates at its western end 4.5m to the east of its proposed position (i.e.: adjacent to the western end of the pool concourse). Amended plans are to be provided to Council’s Manager Development Services for approval prior to the release of the Construction Certificate.

(Reason: To maintain vehicular access to Luna Park for oversized vehicles)

I understand that Luna Park has made submissions to Council through the DA process about access to their site and that they are of the opinion that the proposed ramp located on Olympic Boulevard to facilitate disabled access and BCA requirements for the new development should be amended.

I am recommending that this condition be deleted as we can demonstrate that the ramp does not impede access for Luna Park and legally there may be an issue with conditioning that Council has to provide Luna Park with vehicle access (Any vehicle) in the first place when there is no official permission or instrument in place to allow Luna Park to cross Council owned land (Lot DP 1007291).

Background – Pedestrian Ramp at Southwestern Corner

- (i) Luna Park Sydney Pty Ltd has made submissions which state:

Luna Park has confirmed that vehicles requiring access to the site exceed the standard heavy rigid vehicle that has been modelled in this swept-path-analysis and include:

semi-trailers for the bump in and out for functions and events.

the largest fire brigade aerial appliance for evacuation purposes, including rides especially the Ferris Wheel.

300 tonne mobile cranes for the regular service of rides; and

oversized semi-trailers including ones that have rear axle steering on the trailer for delivering rides.

- (ii) The applicant's response submitted on 7 April 2020 states:

The proposed design has been checked for maneuverability of Heavy and Medium Rigid Vehicles (HRV and MRV) and was found to be satisfactory.

- (iii) The vehicles required to access Luna Park are larger than HRV and MRV vehicles.

Consequently, the design of the pedestrian ramp serving the pool **must be amended to accommodate these larger vehicles**. Manoeuvring diagrams for the larger vehicles listed above or some other justifications (e.g.: maintenance of existing manoeuvring areas) must be provided.

Applicants Response 2 June 2020:

In response to the submission from Luna Park on the amended Development Application Plans and the independent planners request that the plans for the redevelopment of the pool (Item 3 - Pedestrian Ramp in the South West Corner) "*must be amended to accommodate these larger vehicles*" (Semi Trailers, Large Fire Brigade Aerial Equipment, 300 tonne – mobile cranes and vehicles larger than HRV and MRV"), the applicant has advised Council and the independent planner that the ramp is important to the success of the redeveloped North Sydney Olympic Pool in meeting its Disability Discrimination Act (DDA) obligations and is also required for the new facility to meet egress requirements as per the current Building Code of Australia (BCA) standards.

A review of the design was undertaken by Councils Access & Inclusion Co-ordinator before the Development Application was lodged in October 2019 and it was recommended that ramp access be provided for in this location. The ramp has been designed in this location to specifically cater for the needs of people in wheelchairs and or who have mobility issues and are arriving to the pool by ferry (Milsons Point Ferry Wharf). The ramp provides access to the new Gym / Program room located on Level 1. (Refer to figure 1 - Architectural Plans Ao12 – Rev U – Level 1).

If the ramp is removed or modified so that it no longer meets DDA or BCA standards, these facility users would have to make their way up to another on grade entry located adjacent to the level 1 café and then back to the gym and program room on level 1 which is a round trip of over 150m. Alternatively these users would have to make their way to the main entrance to the pool on Alfred

Street which is 200 meters away and up a steep incline (the gradient to get up to the main entrance on Alfred Street is greater than 1:8). These users would then have to catch a lift down to level 1 and make their way through the level 1 corridor or pool concourse to the Gym / Program room on level 1. A round trip of over 350m.

Removing the ramp from this location would significantly disadvantage people in wheelchairs or with mobility issues as it would introduce unnecessarily long travel distances to get to parts of the new pool facility that these users desire to use.

The ramp in this location is also required for egress of the south western side of the facility (Level 1) to satisfy the requirements of the BCA.

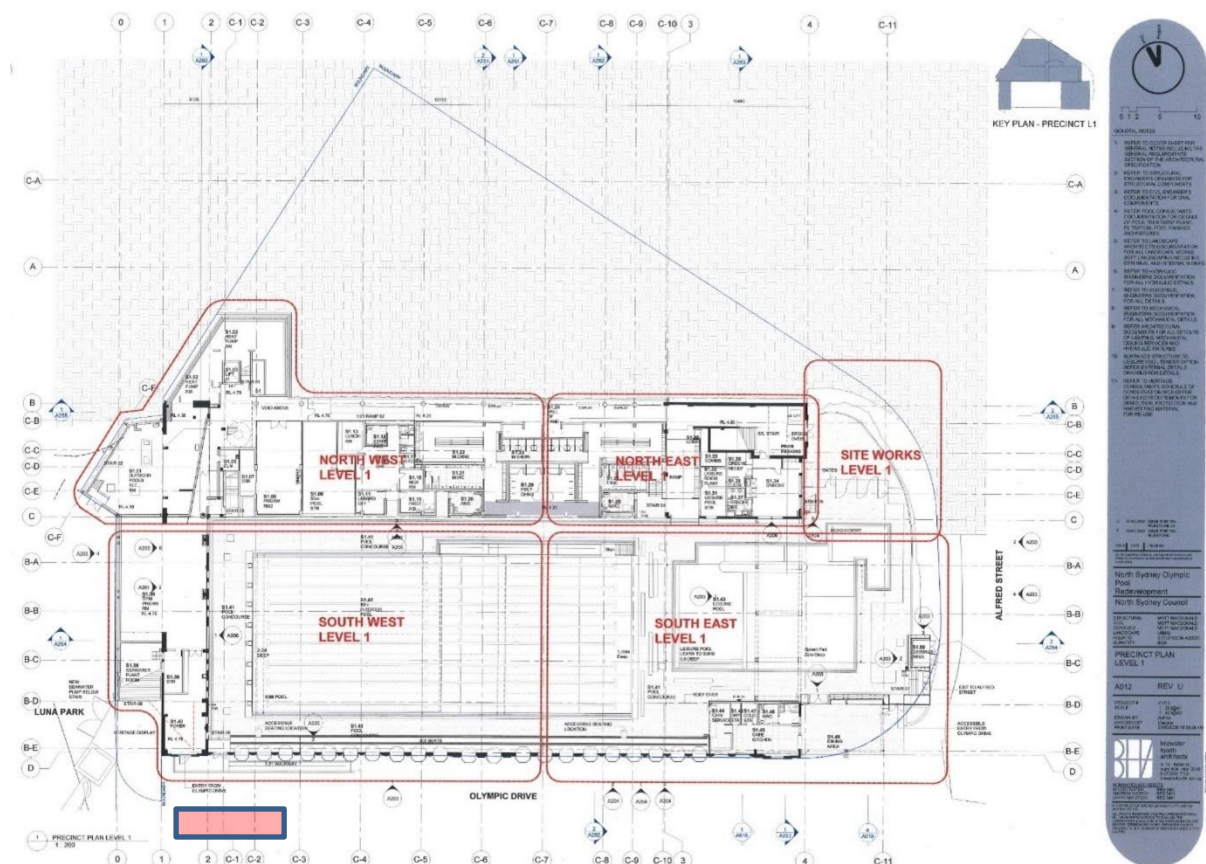


Figure 1. Architectural Plans Ao12 – Rev U – Level 1 Plan showing location of access ramp.

The applicant has also sort advice from North Sydney Councils Property Department which confirms that the ramp in question is simply an extension of an existing ramp which is located in the public roadway (lot 127637) known as Olympic Drive which is land owned and controlled by Council.

Refer to Figure 2 which identifies Lot 127637 (Marked in Red- hatch)

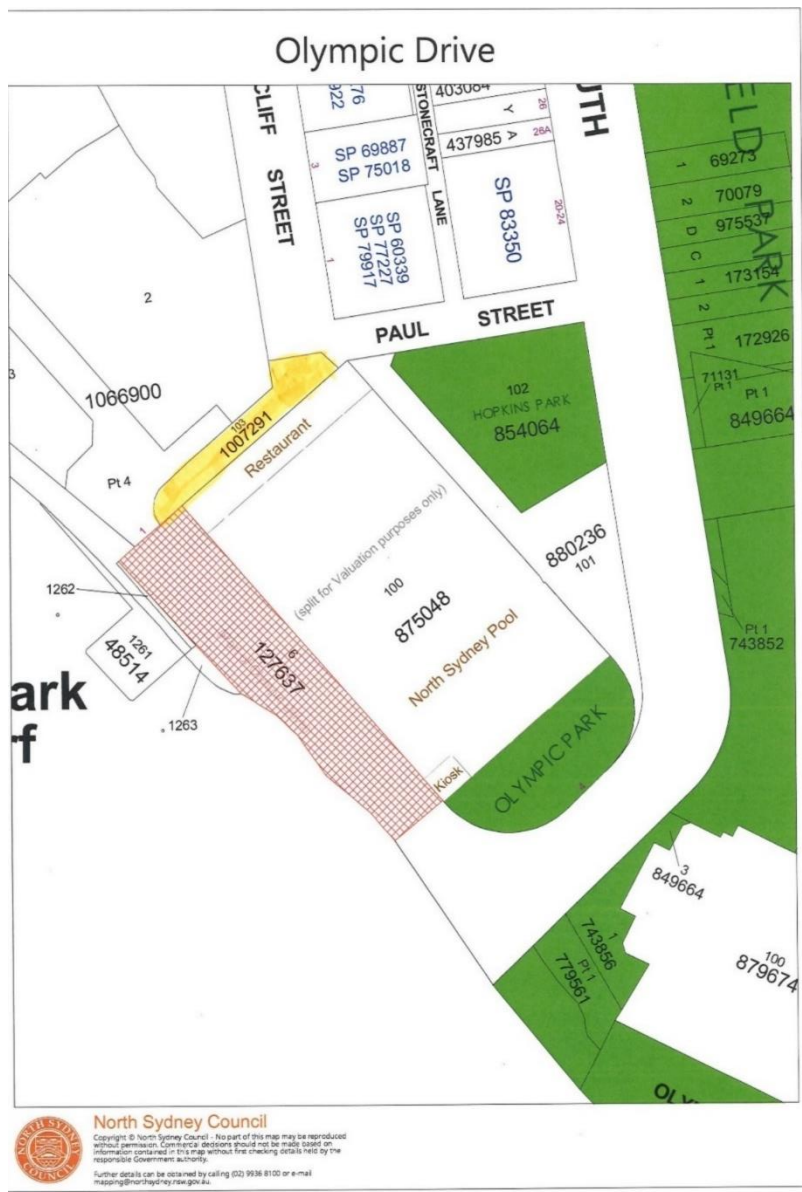


Figure 2 North Sydney Olympic Pool lot ownership diagram including Lot 127637 – Olympic Drive – owned and controlled by Council. (Red Hatch area)

In addition Councils Property Department also confirms that there is currently no formal instrument of agreement (Easement or Right of Way) in place that allows or permits Luna Park to cross over Councils land (Lot 1007291) to gain access to their site.

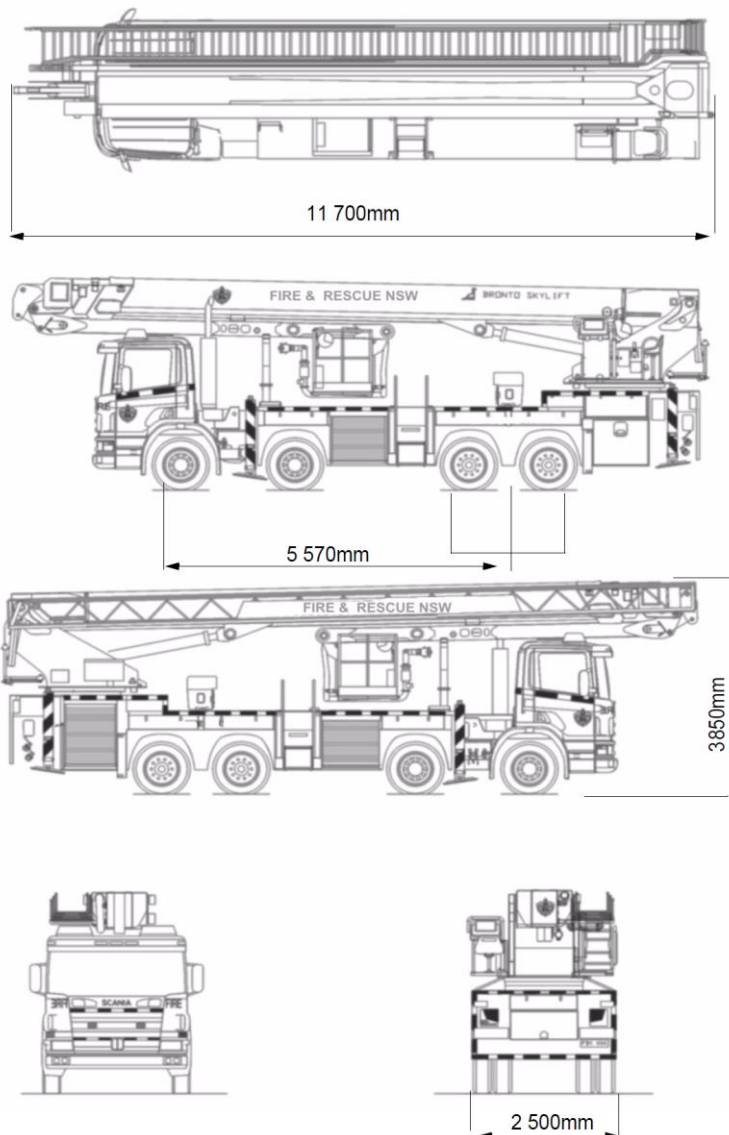
As can be seen on the truck turning plan prepared by Traffic Engineering Consultants TEF - Figure 3 – Luna Park requires access over Councils land to gain access to the service gates which are located between the western access stairs and the eastern pylon to the Luna Park face. These gates are used for services deliveries and Emergency Vehicle Access.

Council has received confirmation from the Metro East 2 - Emergency Services Commander that the emergency vehicle access required for Luna Park is for a vehicle that is equivalent to a 37m “Bronto” 37HDT – equivalent to a Scania P124 vehicle with a 44m ladder. Refer to photo and specifications below.



1.1 General arrangement

Fig. 1.1 General arrangement of Ladder Platform 37m Bronto 37HDT



D.1
VERSION
© COPYRIGHT

RECOMMENDED PRACTICE - LADDER PLATFORM 37M BRONTO 37HDT
02.01 MAY 2014
STATE GOVT OF NSW (FRNSW) 2014

FRN13/2953-010

As can also be seen from the swept path analysis below - the inclusion of an access ramp in this location does not impede current vehicle access for Luna Park. Existing access is maintained for both deliveries and emergency vehicles. Also refer to Figure 4 - Lot Plan

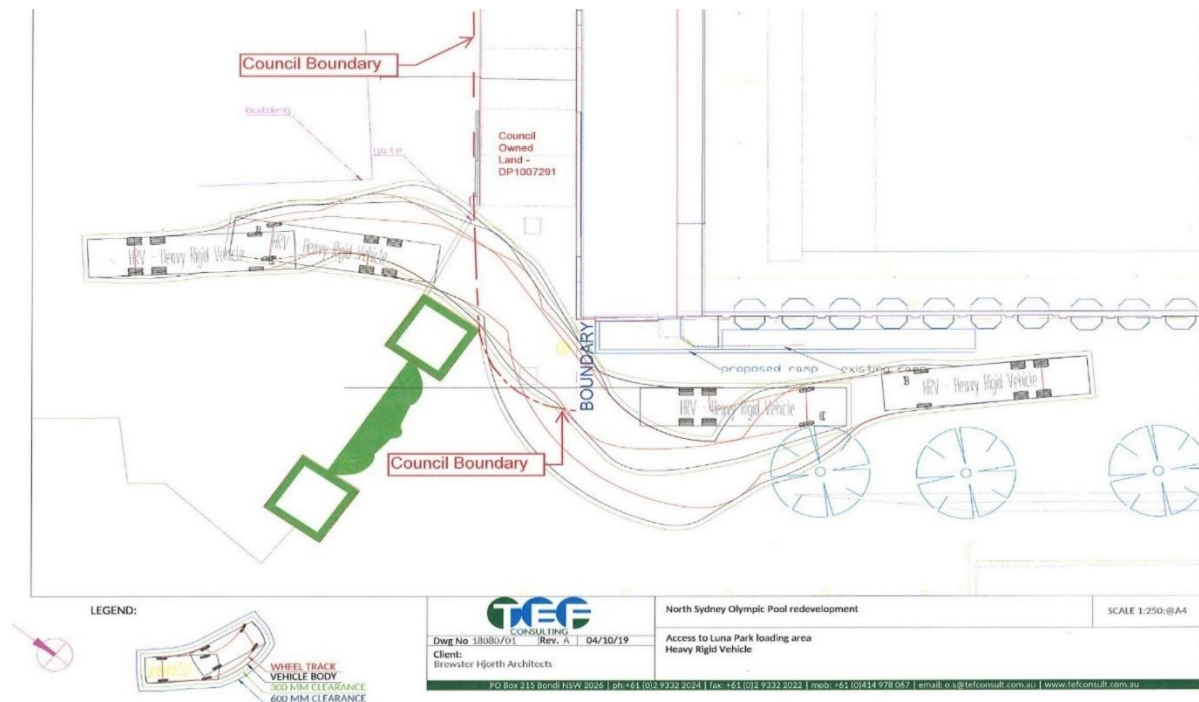


Figure 3 Current Truck turning plan Heavy Rigid Vehicle – HRV – access to Luna Park Loading Area – over Council land.

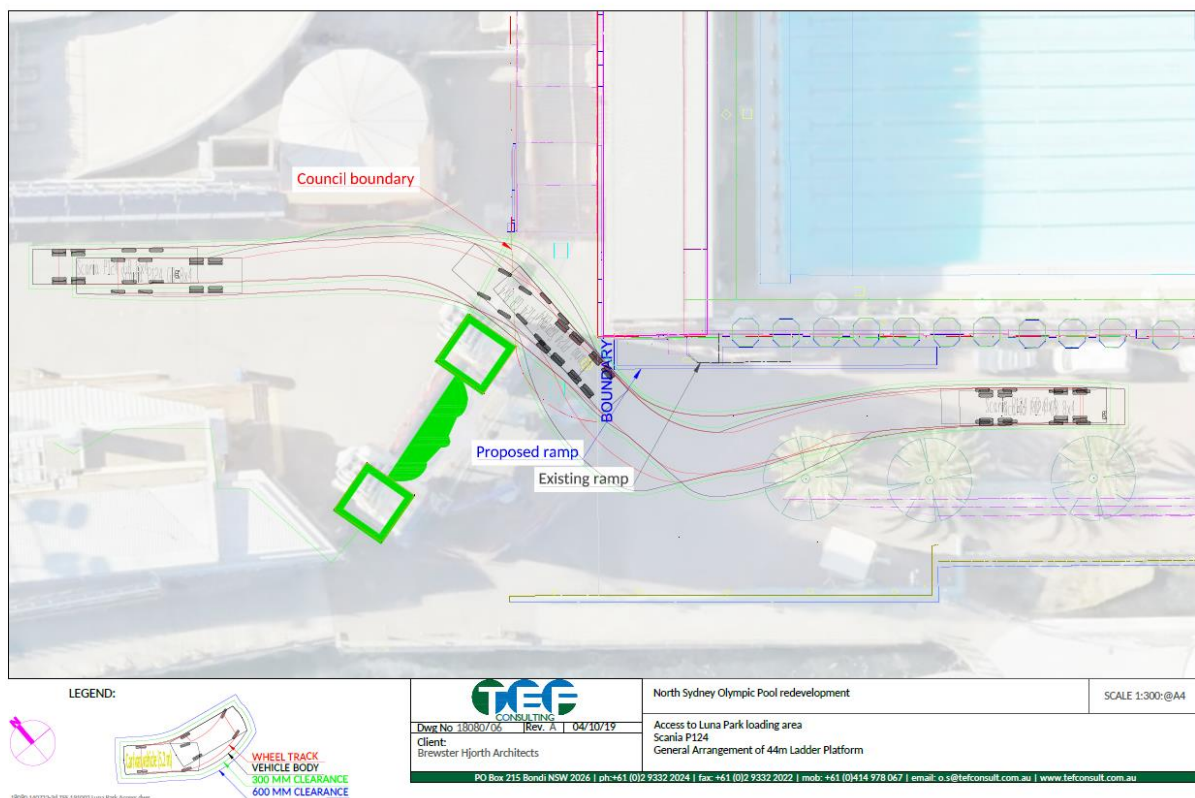


Figure 3a Current Truck turning plan “Bronto” Scania P124 Vehicle with a 44m ladder - access to Luna Park – over Council land.



Photo showing existing access for Luna Park along Olympic Drive – 22 June 2020



Photo showing existing access for Luna Park along Olympic Drive – 22 June 2020



Photo showing existing access for Luna Park along Olympic Drive – 22 June 2020



Photo showing existing access for Luna Park along Olympic Drive – - The existing ramp is to be extended to this window. 22 June 2020



Photo showing existing access for Luna Park along Olympic Drive – - The existing ramp is to be extended to this window. 22 June 2020



Photo showing existing access for Luna Park along Olympic Drive – - The existing ramp is to be extended to this window. 22 June 2020

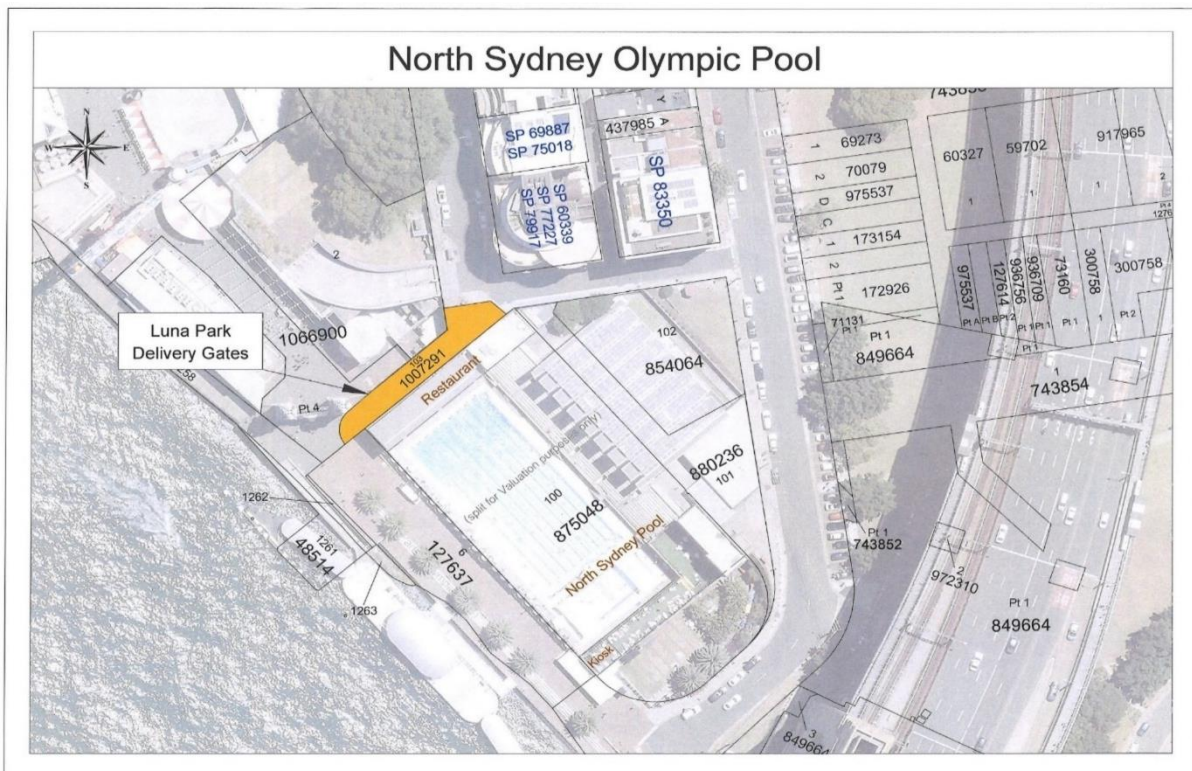


Figure 4 Lot ownership plan – lot DP 1007291 is land owned and controlled by Council. This Council land is currently utilised by Luna Park for truck deliveries and access to the services gates located at the base of the western stairs.

Historically Luna Park has utilised Councils land on the South West Corner of the pool site (Lot 1007291) to traverse trucks and other vehicles across Council land and into their site for deliveries and emergency vehicles access. Councils records show (Gazettal Notice) that the closure of Lot 103 in DP 1007291 was gazetted on 10 December 1999 and remains vested in Council as operational land. When Lot 103 in DP 1007291 was a public road Luna Park was entitled to use the road for access and egress. Upon closure of the road in 1999 the right of Luna Park to use this lot as an access point into and out of the site was extinguished. The certificate of title for lot 103 does not identify any right of way or other easement for access over lot 103 that benefits the land comprising Luna Park. Strictly speaking in legal terms, persons crossing Lot 103 without Councils permission are trespassing.

Refer to figure 5 – Site photo of the access gates and the Council owned (Operational land) in question that Luna Park currently uses for site deliveries. The gates that are currently used for deliveries into the Luna Park site are approximately 6750mm wide and have been in operation for over 15 years.

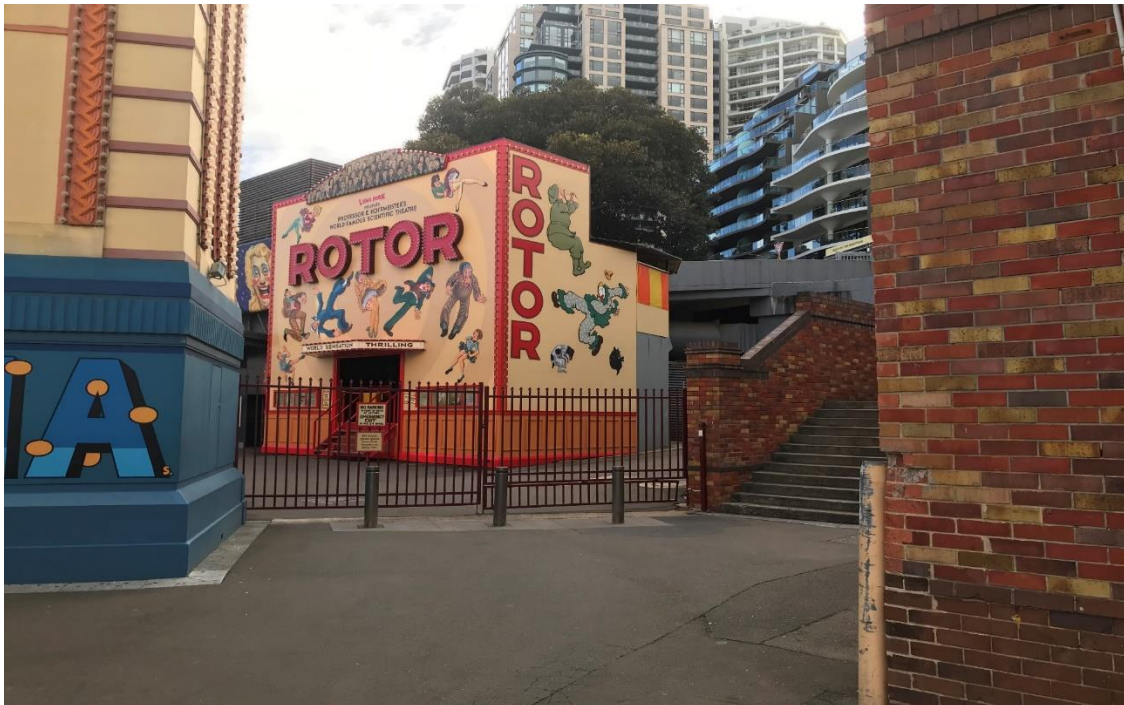


Figure 5 Photos of the Luna Park gates for deliveries and the route that is currently utilised by Luna Park for site deliveries over Councils land (Lot DP 1007291).

Traffic Engineers TEF have also now prepared a swept path analysis for a 300-tonne crane to see if it can enter the site in this location. As can be seen in the swept path analysis it is not physically possible for a 300-tonne crane fit through these gates. It is not even possible for a 300-tonne crane to fit between the pylon to the Luna Park “Face” and Councils building. Refer to Figure 6

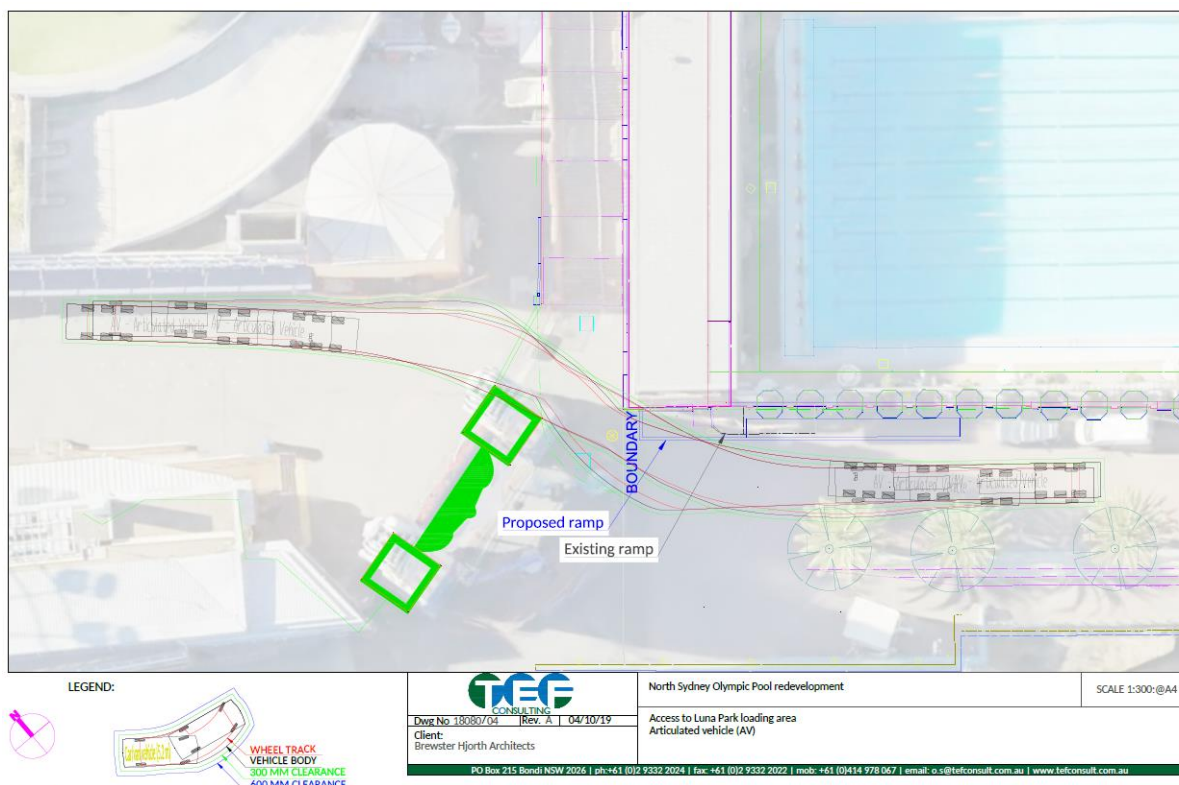


Figure 6. 300 Tonne Crane Swept Path Analysis – This swept path analysis demonstrates it is not physically possible to get a crane of this size to pass through this location.

The applicant has been informed that Councils Engineering and Property Services Director is concerned about the proposal by Luna Park to bring vehicles larger than Heavy and Medium Rigid Vehicles (HRV and MRV truck types) such as Semi Trailers and a 300 Tonne crane to the site through these gates. There is already evidence of damage caused by large trucks to Councils infrastructure on Olympic Drive – which includes Councils bollards and building housing Aqua Dining and the lane 9 Gym which have been scraped and bent by large vehicles entering and leaving Luna Park through these gates.



Photos of damage caused by large vehicles accessing the gates into and out of Luna Park.



No damage to the Luna Park column – right hand side of the “Face”



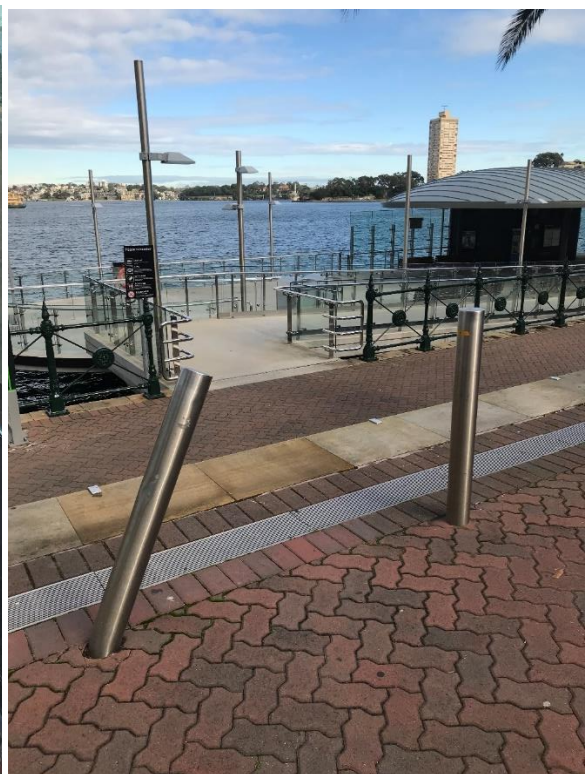
Photos of damage caused by large vehicles accessing the gates into and out of Luna Park.



Photos of damage caused by large vehicles accessing the gates into and out of Luna Park.



Photos of damage caused by large vehicles accessing Olympic Boulevard to get into and out of Luna Park.



Photos of damage caused by large vehicles accessing Olympic Boulevard to get into and out of Luna Park.



Photos of damage caused by large vehicles accessing Olympic Boulevard to get into and out of Luna Park.



Conclusion

The applicant and Council formally request that this condition and the request that *the proposed pedestrian access ramp on Olympic Drive is to be amended so that it terminates at its western end 4.5m to the east of its proposed position (i.e.: adjacent to the western end of the pool concourse). Amended plans are to be provided to Council's* be amended to

The proposed pedestrian access ramp on Olympic Drive is to be amended so that the profile at the end of the ramp is angled (Chamfered) at 45 degrees so that it falls within the wheel envelope of a 19m semi-trailer and does not impede access into and out of the gates to Luna Park adjacent to the western end of the pool concourse.

Amended plans are to be provided to Council's Manager Development Services for approval prior to the release of the Construction Certificate.

(Reason: To maintain vehicular access to Luna Park for oversized vehicles)

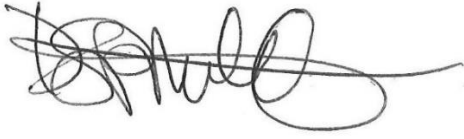
Other reasons why this condition should be amended include the following.

1. The ramp is required to enable Council to meet its Disability Discrimination Act (DDA) obligations and well as to meet egress requirements for the new facility as per the current Building Code of Australia (BCA).
2. The ramp does not impede current access requirements for Luna Park (Large Vehicle including a 19m semi-trailer) as demonstrated in the swept path analysis prepared by TEF – Traffic Engineers. Also the end of the ramp (Landing) is proposed to be now modified – chamfered at 45 degrees to allow for a 19m semi-trailer – “wheel envelope” as shown in figure 3b – marked up drawings that were prepared by JMT Consulting on behalf of Luna Park. Refer to Figure 3b.
3. The request from Luna Park that Council must enable access through these gates and along Olympic Drive for large semi-trailers and a 300 tonne crane is not physically possible as demonstrated in the swept path analysis prepared by TEF Traffic Engineers Refer to Figure 6.
4. The damage caused to Councils infrastructure (Bollards in Olympic drive, bollards) adjacent to the access gates and Councils Building has been caused by truck movements to and from these gates and is not acceptable to Council. The damage will only be exacerbated by attempting to drive larger vehicles on Olympic Drive and through these gates.
5. Council as the landowner of lot 3 in DP 1007291 in front of the Luna Park Service Gates has never granted any formal access to Luna Park over its land and therefore legally it may be argued that Luna Park has no entitlement to any access over this Council owned land since the closure of Lot 103 as a road in 1999 – The land that Luna Park now accesses vehicles over is vested in Council as operational land and has been since 1999. When Lot 103 in DP 1007291 was a public road Luna Park was entitled to use the road for access and egress. Upon closure of the road in 1999 the right of Luna Park to use this lot as an access point into and out of the site was extinguished. The certificate of title for lot 103 does not identify any right of way or other easement for access over lot 103 that benefits the land comprising Luna Park.

Council would not want a condition to be imposed on the development that is potentially unlawful.

If you have any queries, please do not hesitate to contact me.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Duncan Mitchell', with a long horizontal flourish extending to the right.

Duncan Mitchell – Director of Engineering and Property Services