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20 SEPTEMBER 2019

SSD 7228
SYDNEY ZOO MOD 3

SYDNEY ZOO PTY LTD SUBMISSION TO INDEPENDENT PLANNING COMMISSION

Sydney Zoo is providing this submission to the Independent Planning Commission in response to the submission dated 19 September 2019 made by Urbis on behalf of Elanor Investors Group (Elanor) in relation to Sydney Zoo's application to modify development consent SSD 7228 pursuant to MOD 3: Clarification of Operating Hours.

Sydney Zoo submits that Elanor has provided no substantive grounds to justify the refusal of MOD 3. Approval of MOD3 is supported by the Department of Planning, Industry and Environment. Relevantly, the Department's assessment report concluded that:

*"the proposed out-of-hours activities reflect Sydney Zoo's response to a requirement of the existing conditions of consent (Condition C9) to encourage and enhance regional tourism in conjunction with the Development and **do not affect the differentiation requirements** (Conditions B6 to B9) on the consent. Permitting the extended operating hours will allow Sydney Zoo to cater for a range of community events consistent with those offered by other recreational facilities across the Greater Sydney Region, **providing an overall positive social impact and contributing to the social benefits of Sydney Zoo.**"*

Sydney Zoo supports the Department's conclusions and reiterates its unqualified commitment to complying with its existing conditions of consent, including conditions B6 to B9.

Sydney Zoo is disappointed to see that Elanor continues to engage in a protracted process of making multiple submissions on the same application to procure a commercial advantage to itself.



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Proposed Condition of Consent

Elanor has also requested the imposition of a condition of consent *“that differentiates the facilities for a specified period of time and mitigates detrimental impacts”*.

The proposed condition is not supported by the Department’s findings in relation to differentiation and social impacts and, accordingly, Sydney Zoo submits it should not be imposed by the IPC.

While Sydney Zoo would like to avoid engaging in this back and forth on submissions, Elanor’s strategy of suggesting a potentially significant modification to an existing condition in Sydney Zoo’s development consent at this late stage of the public exhibition process is a last ditch effort from Elanor to advance its commercial interests for another three years. If the IPC were minded to further consider this mischievous proposal by Elanor, Sydney Zoo should be provided with an opportunity to substantively respond.

Sydney Zoo submits that the suggested modification to condition B8 by Elanor is made without any technical justification or evidence as to how this would achieve any differentiation between Featherdale and Sydney Zoo. There is no rational basis according to planning principles to impose the suggested modification to this condition.

Section 4.17(1)(a) of the *Environmental Planning and Assessment Act 1979* (NSW) (EP&A Act) provides that a condition of development consent must relate to any matter in section 4.15(1) of relevance to the development the subject of the consent. If the suggested condition were imposed, it is difficult to see how it would relate to any matter in section 4.15(1), as it is simply a means to advance the commercial interests of Featherdale.

Sydney Zoo submits that imposing such a condition would be unreasonable in the circumstances, as there is no reasonable planning basis or justification for imposing it.

In addition, Sydney Zoo submits that the proposed condition would have significant unintended and unreasonable consequences. By way of tangible example, the proposed condition would preclude Sydney Zoo from participating as a venue for the RunWest Fun Run (see <http://www.runthewest.com.au> for more information).



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The inaugural RunWest event took place in June this year and is planned to take place annually. Sydney Zoo has agreed to participate as a running venue with runners passing through the zoo before entering the Western Sydney Parklands. As is usual for running events, this event commences early in the morning. The proposed condition would prohibit members of the public entering the zoo before 9am and, accordingly, would preclude Sydney Zoo's participation as a running venue. This would substantially diminish the appeal of this significant Western Sydney community event which raised over \$46,000 for charity in 2019.

We trust that the information provided in this submission is helpful to the IPC's consideration of the proposed MOD 3. Should the Commission require any further information, please do not hesitate to contact me.

Sincerely

Jake Burgess
Managing Director
Sydney Zoo Pty Ltd