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SYDNEY NSW 2000**

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19 September 2019

Mr Brad James  
Senior Planning Officer  
Independent Planning Commission NSW  
Via email: bradley.james@ipcn.nsw.gov.au

Dear Brad ,

## **SYDNEY ZOO - SSD 7228 MODIFICATION 3**

On behalf of Elanor Investors Group (Elanor), the owners and operators of Featherdale Wildlife Park, we submit this additional information in support of:

- the letter of objection to proposed Modification 3 submitted to the NSW Department of Planning Industry and Environment dated 6 August 2019, and
- the submission objecting to proposed Modification 3 provided to the IPC dated 28 August 2019.

Firstly, we reiterate our submission that this application should be refused on the following key grounds:

1. The proposed expansion and intensification of public access to Sydney Zoo proposed in Modification 3 is premature given the absence of an acceptable and approved approach to 'enhance regional tourism' as required by Condition C9 of the Development Consent.
2. The proposal will adversely impact the commercial feasibility of Featherdale such that it will be unable to maintain programs which have significant social, educational, employment and conservation benefits for the locality.
3. Section 4.55(1A) is not a valid approval pathway for a modification resulting in such significant detrimental economic and social impacts.

Secondly, our client has reviewed the Transcript of Sydney Zoo's meeting with the IPC on 28 August 2019 and strongly rejects the assertions made by Sydney Zoo that the primary purpose of the modification is to service demand from the local community. Featherdale relies on all the reasons set out in its submission to the IPC to refute that position including, at its simplest, that there is no need to open before 9am to service the local market. Featherdale's position is informed by its experience operating for almost 40 years in this very same sector. Sydney Zoo has produced no objective evidence to support the raft of representations made by it to the IPC in terms of local market demand before 9am.

While Sydney Zoo sought to maintain that position, it did (albeit seemingly unwillingly and only in response to questioning from the IPC) eventually confirm that buses of international tourists will be targeted with the earlier opening hours. It is our client's position that, based on Sydney Zoo's conduct to date including marketing in blatant breach of the existing differentiation obligations in the

Development Consent, that the IPC should have no comfort that Sydney Zoo will make good on its representations that early opening hours will be used to predominantly serve the local community.

As set out in our submission, current civil enforcement proceedings in the Land and Environment Court are strong evidence that Sydney Zoo is intent on, and fighting hard to, walk away from many of the differentiation representations which it made to the Department and PAC to appease their concerns in relation to adverse social and economic impacts in the locality. We respectfully ask the IPC to be alert to this risk when considering representations made by Sydney Zoo during its meeting with the IPC on 28 August 2019.

Notwithstanding the above, if the Commission forms the view that the application should be approved, we request the imposition of a condition of consent that differentiates the facilities for a specified time period and mitigates detrimental impacts arising from the expanded operation of Sydney Zoo.

Specifically, we request that Condition B8 of the modified Development Consent be amended to restrict any members of the public (including individuals, or as part of family, public or private tour groups) visiting between the expanded operating times of 7.30am to 9am for the **first three years of operation of the facility**. Sydney Zoo would, however, be able to utilise early opening hours in the first three years for private service deliveries which it represented to the IPC as being another key driver for the modification.

The suggested amended condition would read as follows:

*B8. For the first three years after opening to the public, the Applicant is prohibited from:*

- a) having Interactive Programs that involve touching a koala except as part of demonstrations in the educational amphitheatre or provided in the context of educate of school groups; and*
- b) **having any members of the public** (including as individuals, or as part of family, public or private tour groups) **accessing the site before 9am on any day of the week.***

The Commission imposed Condition B8 in the Development Consent to ensure the commitment made by Sydney Zoo to establish a complimentary relationship with Featherdale and allow differentiation to be achieved, as well as mitigating potential impacts on Featherdale with the opening of the new facility.

We submit that imposition of the suggested modified Condition B8 enables Sydney Zoo to utilise early opening hours in the first three years for private service deliveries which it represented to the IPC as being another key driver for the modification, while ensuring Featherdale's long established relationships with tour group are maintained for at least three years. It will also have no significant impact on Sydney Zoo's ability to service the local community. This represents an appropriate and consistent approach reinforcing the Commissions desire to maximise the opportunity for both facilities to operate successfully. We submit also that this condition is readily enforceable.



We request the Commissions consideration of this submission when determining the application.

Please contact me if you have any questions.

Yours sincerely,

A handwritten signature in black ink, appearing to read "John Wynne".

**JOHN WYNNE**  
**GROUP DIRECTOR**

CC Mr Chris Ritchie - Department of Planning Industry and Environment