

ATTACHMENT D

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**EPA PREVENTION NOTICE**

**MOORE PARK**

# ATTACHMENT D

Environment Protection Licence - Protection of the Environment Operations Act 1997

## Prevention Notice

Section 96 of the Protection of the Environment Operations Act 1997



CENTENNIAL PARK & MOORE PARK TRUST,  
LOCKED BAG 15,  
PADDINGTON NSW 2021  
STANDARD POST

Attention: Ms Annie Heath

Notice number: 1002139

File number: SR125

Date: 26-Feb-2001

### NOTICE OF PREVENTIVE ACTION

Section 96 Protection of the Environment Operations Act 1997

#### BACKGROUND

(A) In this Notice:

- (a) "**Accredited Acoustical Consultant**" means an acoustical consultant who is a member of one or more of the following organisations: The Association of Australian Acoustical Consultants; The Australian Acoustical Society; or the Institution of Engineers Australia;
- (b) "**Category 1 Event**" means any event using sound amplification equipment with a crowd capacity less than 1,500 people other than cinematic screenings and theatrical performances using sound amplification equipment held at the Belvedere Amphitheatre;
- (c) "**Category 2 Event**" means any event using sound amplification equipment with a crowd capacity greater than 1,500 people other than:
  - (i) musical concert events using sound amplification equipment with a crowd capacity greater than 5,000 people; and
  - (ii) cinematic screenings and theatrical performances using sound amplification equipment held at the Belvedere Amphitheatre;

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- (d) "Category 3 Event" means any musical concert events using sound amplification equipment with a crowd capacity greater than 5,000 people;
  - (e) "Category 4 Event" means any cinematic screenings and theatrical performances using sound amplification equipment held at the Belvedere Amphitheatre;
  - (f) "Centennial Parklands" means Moore Park, Centennial Park and Queens Park;
  - (g) "Console Operator" means the person at the sound mixing console (or sound desk), who is in control of the volume of noise emanating from the speakers installed at an event;
  - (h) "EPA" means New South Wales Environment Protection Authority;
  - (i) "Sensitive Receiver" means places such as nursing homes, hospitals and schools;
  - (j) "Trust" means the Centennial Park and Moore Park Trust;
- (B) The Environment Protection Authority (EPA) has received complaints in the past from local residents regarding open air concert and cinema events previously held by the Trust within the Centennial Parklands.
- (C) The Trust has agreed with the EPA that the conditions on this Notice afford both the Trust and local residents a degree of certainty regarding the acceptable level of impact of these events on local residents.
- (D) Noise from events held within the Centennial Parklands may still be audible beyond the boundary of the Centennial Parklands when the ambient background level is not being exceeded.
- (E) The following conditions on this Notice may be varied by the EPA upon written request from the Trust providing such requests are received by the EPA at least twenty eight (28) days prior to the relevant event.
- (F) The following conditions on this Notice may be permanently varied by subsequent Notice based on experience with noise from the events subject to this Notice.

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### DIRECTION TO TAKE PREVENTIVE ACTION

The Environment Protection Authority ("EPA") directs CENTENNIAL PARK & MOORE PARK TRUST to take the following action(s):

#### **GENERAL CONDITIONS – CONDITIONS 1 TO 5 APPLY TO ALL EVENTS AT WHICH SOUND AMPLIFICATION EQUIPMENT IS USED**

##### **(1) Minimising Noise Impacts**

Any sound amplification equipment used at any time at Centennial Parklands must be installed, maintained and operated in such a way as to minimise the noise impact on residential premises or sensitive receivers.

##### **(2) Notification of Residents**

The Trust must make all reasonable efforts to ensure that residents likely to be significantly impacted upon by noise from any events held within the Centennial Parklands are given prior notification. This notification must include the telephone number of a person(s) authorised by the Trust to discuss any noise issues associated with the event and this person(s) must be available on this number during the entire event, including any associated sound tests and rehearsals.

##### **(3) Complaints**

The Trust must have a mechanism in place to deal with any complaints and must consider any past complaints when developing future plans to manage sound and planning and managing future events. As much as is practicable, the Trust must arrange for the noise levels emanating from events held within the Centennial Parklands to be monitored at the location of any complaints as soon as possible after the Trust has received the complaint.

##### **(4) Trust Retain Ultimate Control**

The Trust must retain ultimate control of the level of sound caused by any amplification equipment during any events, including the test(s), rehearsal(s) and performances comprising concerts and cinematic screenings and theatrical productions.

##### **(5) Monitoring Method**

The monitoring point for measuring noise levels as required in this notice, must be within one (1) metre of the boundary of any residential premises or sensitive receivers. Measurements must be taken using "fast" time response and over 15 minute intervals (T).

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### CATEGORY 1 EVENTS (CONDITIONS 1 TO 7 APPLY TO CATEGORY 1 EVENTS)

#### (6) Noise Level Limit

The A-weighted sound pressure level (LA10.T) of noise from any amplification equipment used at Centennial Parklands must not exceed the ambient background Level (LA90.T).

#### (7) Monitoring

The Trust must conduct sufficient monitoring to ensure that:

- (a) the noise levels from these events comply with condition 6 above;
- (b) the Trust has an understanding of the ambient background noise levels at external locations most affected by noise emanating from the Centennial Parklands on different days and at different times of the day; and
- (c) the Trust has a working knowledge of what the noise levels are likely to be at the external locations most affected by noise emanating from the Centennial Parklands due to different types of events, and the use of different types of sound amplification equipment in different areas of the Centennial Parklands.

### CATEGORY 2 EVENTS – (CONDITIONS 1 TO 5 AND 8 TO 9 APPLY TO CATEGORY 2 EVENTS)

**Note:** As much as is practicable, events must finish before 2000 hours if held on any day preceding a working day.

#### (8) Time and Noise Level Limits

The A-weighted sound pressure levels (LA10.T) of noise emanating from sound amplification equipment must not exceed:

- (a) 5dB(A) above ambient background levels (LA90.T) between 1000 hours and 2300 ;  
and
- (b) the ambient background levels (LA90.T) at other times.

#### (9) Monitoring

The Trust must conduct sufficient monitoring to ensure that:

- (a) the noise levels from these events comply with condition 8 above;
- (b) the Trust has an understanding of the ambient background noise levels at external locations most affected by noise emanating from the Centennial Parklands on different days and at different times of the day; and

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- (c) the Trust has a working knowledge of what the noise levels are likely to be at the external locations most affected by noise emanating from the Centennial Parklands due to different types of events, and the use of different types of sound amplification equipment in different areas of the Centennial Parklands.

### CATEGORY 3 EVENTS – (CONDITIONS 1 TO 5 AND 10 TO 17 APPLY TO CATEGORY 3 EVENTS)

#### (10) Number of Events

Musical concerts may be held within the Centennial Parklands on a maximum total of eight (8) days in any calendar year. A series of musical concerts may be held over a maximum period of four (4) consecutive days.

**Note:** A music festival held over a series of consecutive days will be considered to be a series of one day musical concerts.

**Note:** This condition does not apply to events of national significance organised by the Federal or State Government. The decision as to whether an event is of national significance lies with the EPA.

#### (11) Notification of the EPA

At least twenty eight (28) days prior to the commencement date of the concert(s), the Trust must inform the EPA's Manager, Sydney Local Government of:

- (a) the times and dates of any proposed concert(s); and
- (b) the name and contact details of a general liaison person for the purposes of communication with the EPA in connection with any concert(s).
- (c) the name and contact details of a person appointed as the Trust's representative specifically for the duration of any sound test(s), rehearsal(s) and concert(s).

The EPA should be notified of any changes to these details at least seven (7) days prior to the commencement date(s) of the concerts.

At least seven (7) days prior to the commencement date of the concert(s), the Trust must inform the EPA's Manager, Sydney Local Government of:

- (a) the times and dates of any proposed sound test(s) and rehearsal(s).

#### (12) Access Passes

At least seven (7) days prior to a concert or festival the Trust must provide the EPA with two (2) access passes to the concert or festival area. These passes must provide unrestricted access to all areas, including the sound and mixing booth, of the grounds where the concert(s) is to be staged.

#### (13) Hours for Concerts, Rehearsals and Sound Tests

- (a) **Concerts**

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A concert must not commence prior to 1000 hours or finish after 2230 hours on any day. If the completion of a concert event is delayed by an occurrence which is beyond the control of the Trust, then the concert may continue until 2300 hours.

**(b) Rehearsals with Sound**

The total duration of concert rehearsals that are audible beyond Centennial Parklands must be kept to an absolute minimum, and must not exceed four (4) hours for each concert. Rehearsals must not commence before 1000 hours or finish after 2200 hours.

**(c) Sound Tests**

The maximum total duration of the sound test(s) audible beyond the boundary of the Centennial Parklands must not exceed one (1) hour for each concert. Sound test(s) associated with a concert must take place on one day only and be conducted between 1000 hours and 2000 hours.

**Note:** As far as is practicable, concerts and rehearsals should finish before 2000 hours if held on a day preceding a working day.

**(14) Noise Level Limits****(a) A-weighted**

During the test(s), rehearsal(s) and concert(s), the A-weighted maximum sound pressure level (LA,Max) measured in accordance with condition 5, must not exceed 65 dB(A).

**(b) Low Frequency**

During the test(s), rehearsal(s) and concert(s), the C-weighted maximum sound pressure level (LC,Max) measured in accordance with condition 5, must not exceed 85 dB(C).

**Note:** The World Health Organisation (WHO) has identified that low frequency (bass) noise can be particularly disturbing.

As far as is practicable, the LA,Max and LC,Max must be measured:

- i) in the absence of any influential sound, that is audibly distinguishable and extraneous to the sound from the amplification equipment; and
- ii) with the sound level meter set to the "fast" time response, and the microphone placed between 1.5 and 1.6 metres above the ground.

**Note:** The LA,Max and LC,Max are the absolute maximum sound pressure levels that must never be exceeded at any time. They are not the LA,10 or LC,10.

**(15) Exemption for Exceedences at the Start of New Performances**

An exceedence of the noise level limit in condition 14(a) by a maximum of 5 dB(A) and/or an exceedence of the noise level limit in condition 14(b) by 5 dB(C) during a single five (5) minute period during the first fifteen (15) minutes of the performance of each new separate band or act will not be taken to be a breach of condition 14.

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The exceedences permitted by this condition must be kept to an absolute minimum.

### (16) Monitoring Points and Acoustical Consultant

Compliance or non-compliance with condition 14 must be monitored for the entire duration of the sound test(s), rehearsal(s) and concert(s), by an accredited acoustical consultant.

The monitoring points must be at the locations most affected by noise from the sound test(s), rehearsal(s) and concert(s). The locations most likely to be affected must be determined before the sound test(s), rehearsal(s) or concert(s) commence and then verified and adjusted as necessary.

### (17) Reports to be provided to the EPA

On the next working day following the completion of the concert the Trust must report to the EPA's Manager, Sydney Local Government by facsimile or phone:

- (c) compliance or non-compliance with condition 13, including the reasons for any breaches of the specified hours;
- (d) times and details of any occasions where exceedences of the noise level limits in condition 14 occurred *which were not exempted* by condition 15 and why the exceedence(s) occurred and what action was taken; and

Within twenty eight (28) days after the completion of a concert or series of concerts, the Trust must submit to the EPA's Manager, Sydney Local Government a written report prepared by an accredited acoustical consultant. The report must contain the following:

- (a) the name address and telephone number of the person who prepared the report;
- (b) the relevant date(s) and the commencement and completion times of the test(s), rehearsal(s) and concert(s) on each day;
- (c) a schedule of the actual start and finishing time of each new separate band or act;
- (d) the times and location(s), including a site plan, at which the noise measurements were taken and justification for selection of these locations;
- (e) details of the equipment and methods used to take measurements;
- (f) a statement of any time(s) at which the noise levels in condition 14 were exceeded and the level(s) and duration of any exceedence(s), *including* those permitted by condition 15;
- (g) if any exceedences of conditions 14 or 15 occurred, a statement as to any measures which could have been undertaken to avoid those exceedences; and
- (h) any other information relevant to the consideration of the noise impact from the event on residents or other sensitive receivers.

The Trust must at the same time submit the following information:

- (i) the estimated total number of people that were anticipated to attend the concert(s) on each day and the number who actually attended;

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- (j) a summary of the number, location and times of any complaints received by the Trust;
- (k) if any exceedences occurred or any complaints were received, details of what the Trust intends to do (or do differently) for any future events; and
- (l) any other information relevant to the consideration of the noise impact from the event on residents or other sensitive receivers.

### CATEGORY 4 EVENTS (CONDITIONS 1 TO 5 AND 18 TO 22 APPLY TO CATEGORY 4 EVENTS)

#### (18) Number of Screenings and Performances

Category 4 events may be held during a maximum combined total of twenty six (26) weeks during any calendar year.

A maximum number of six (6) screening or performance days may be held per week. However, one additional "charity" screening or performance may be held on the seventh day once during any twelve (12) week period.

#### (19) Hours

Screenings and performances must not commence prior to 1000 hours or finish after 2300 hours on days preceding working days. If the completion of a screening or performance is delayed by an occurrence which is beyond the control of the Trust, then the screening may continue for an extra thirty (30) minutes.

Sound tests audible beyond the boundary of Centennial Parklands may be conducted for a total duration of one (1) hour per day for each screening or performance day and they must be conducted between 1000 and 1800 hours only.

The maximum total duration of rehearsals with the use of sound amplification equipment audible beyond the boundary of Centennial Parklands must not exceed three (3) hours per week.

#### (20) Noise Level Limits

During any cinematic screenings and the associated sound test(s) and during any theatrical performances and the associated sound test(s) and rehearsal(s), the A-weighted maximum sound pressure level  $L_{Amax}$  measured in accordance with condition 5, must not exceed the following levels at the corresponding locations:

55dB(A) at the corner of York Street and York Place;

48dB(A) at the corner of St James Road and York Place;

48dB(A) at the corner of St James Road and Gowrie Street; or

51dB(A) on York Street, at any point between Birrell Street and York Place.

As far as is practicable, the  $L_{Amax}$  must be measured:-

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- (a) In the absence of any influential sound, that is audibly distinguishable and extraneous to the sound from the amplification equipment.
- (b) With the sound level meter set to "fast" time response and the microphone placed between 1.5 and 1.6 metres above the ground.

**Note:** The LA<sub>max</sub> is the absolute maximum sound pressure level that must never be exceeded at any time. It is not the LA<sub>10</sub>.

### (21) Monitoring

The first sound test and screening of each season of screenings must be monitored by an accredited acoustical consultant to ensure compliance with condition 22.

The Trust must conduct sufficient monitoring of the noise levels from theatrical performances and the associated sound test(s) and rehearsal(s) to ensure compliance with condition 22.

### (22) Reporting

On the next working day following the first screening of a season of screenings, the Trust must report to the EPA by facsimile:

- (a) compliance or non compliance with condition 20 during the first sound test and screening including the reasons for any breaches of the specified hours; and
- (b) times and details of any occasions where exceedences of the noise level limits in condition 20 occurred, why the exceedences occurred and what action was taken; and
- (c) what the Trust intends to do to ensure the specified hours and noise level limits are complied with in the future.

**Note:** Depending upon this report and the number and nature of any complaints received during the season, the EPA may require additional monitoring to be conducted.

This notice is issued under section 96 of the Protection of the Environment Operations Act 1997.

It is an offence against that Act not to comply with this notice.

However this notice does not begin to operate immediately and you can appeal against the notice.

At the end of this notice there is information about when the notice begins to operate, the penalty for not complying with it and about how you can appeal against it.

### FEE TO BE PAID

You are required by law to pay a fee of \$320 for the administrative costs of issuing this notice.

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It is an offence not to pay this fee. However you can apply for an extension of time to pay the fee or for the fee to be waived. At the end of this notice there is information about how and when to pay the fee and how to apply for an extension or a waiver of the fee.

.....

Mr David Featherston  
Senior Operations Officer  
Sydney Local Government  
(by Delegation)

### INFORMATION ABOUT THIS PREVENTION NOTICE

#### Penalty for not complying with this notice

- The maximum penalty for a corporation is \$250,000 and a further \$120,000 for each day the offence continues. The maximum penalty for an individual is \$120,000 and a further \$60,000 for each day the offence continues.

#### Appeals against this notice

- You can appeal to the Land and Environment Court against this notice. The deadline for lodging your appeal is 21 days after you were served with the notice.

#### When this notice begins to operate

- This notice does not operate:
  - (a) until the 21 day appeal period has expired without you lodging an appeal or
  - (b) if you do lodge an appeal, until the Land and Environment Court confirms the notice or you withdraw the appeal,whichever happens first.

#### Deadline for paying fee

- The fee must be paid by **no later than 30 days after the date of this notice unless you appeal** to a court against the notice. If you do appeal the fee does not have to be paid unless and until the court confirms the notice.

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- cheque or cash. Cash to be paid in person at 59-61 Goulburn Street, Sydney NSW.
- Please include the payment slip from the attached invoice/statement with your payment.

### How to apply for extension of time to pay/waiver of fee

- Any application should be made in writing to the Environment Protection Authority and sent to PO Box A290 Sydney South NSW 1232. The application should set out clearly why you think the application should be granted.

### Other costs

- The Protection of the Environment Operations Act allows the Environment Protection Authority to recover from you reasonable costs and expenses it incurs in monitoring action taken under this notice, ensuring the notice is complied with and associated matters. (If you are going to be required to pay these costs and expenses you will be sent a separate notice called a "Notice Requiring Payment of Reasonable Costs and Expenses".)