



NSW GOVERNMENT
Department of Planning

13 March 2007

Our ref: S06/00536

Contact: Josephine Wing
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Andrew Hanson
Sydney Opera House Trust
C/ Savills
Level 1, 9-13 Young Street,
Sydney NSW 2000

Dear Mr Hanson,

**RE: MODIFICATION (MOD 136-11-2006) OF DEVELOPMENT CONSENT (DA 43-2-2004)
SYDNEY OPERA HOUSE – UPGRADE AND REFURBISHMENT OF WESTERN
BROADWALK AND WESTERN FOYER, BENNELONG POINT, SYDNEY.**

I refer to the above modification application MOD 136-11-2006 to modify DA 43-2-2004 lodged with the Department on 15 November 2006.

I am writing to inform you that the application has been granted consent, subject to conditions. The consent is on the basis of the attached Notice of Determination. A copy of the consolidated consent is attached for your information. Please note the consent operates from the date of this letter.

If you have any further enquiries, please contact Josephine Wing on (02) 9228 6528 or email josephine.wing@planning.nsw.gov.au quoting the above Modification Application number.

Yours sincerely,

Heather Warton
Director
Urban & Coastal Assessments

ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

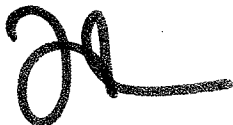
MODIFICATION (MOD 136-11-2006) OF DEVELOPMENT CONSENT (DA 43-2-2004)

SYDNEY OPERA HOUSE – UPGRADE AND REFURBISHMENT OF WESTERN BROADWALK AND WESTERN FOYER, BENNELONG POINT, SYDNEY

PURSUANT TO SECTION 80 AND SECTION 96(2) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

(FILE NO. S06/00536)

I, Jason Perica, Executive Director, Strategic Sites and Urban Renewals, as delegate for the Minister for Planning, Pursuant to Section 96(2) of the *Environmental Planning and Assessment Act, 1979* **approve** the application to modify the development consent referred to in the attached Schedule 1 in the manner set out in the attached Schedule 2.



Jason Perica
Executive Director
Strategic Sites and Urban Renewals

Sydney,

7/3

2007

SCHEDULE 1**PART A—TABLE**

Application Number:	DA 43-2-2004
Application made by:	Sydney Opera House Trust Bennelong Point, Sydney
On land comprising:	Sydney Opera House Bennelong Point, Sydney
Local Government Area	City of Sydney
For the carrying out of:	Upgrade and refurbishment of Western Broadwalk and Western Foyer, including a new loggia, new framed openings to the western podium walls, unified foyer space and lift access from the lower concourse, podium and box office foyer levels.
Section 96 (2) Application	MOD 136-11-2006 to modify DA 43-2-2004 in the following manner: <ul style="list-style-type: none"> • construct a new access corridor, door opening and lift lobby to provide access from the Lower Concourse to the Bennelong Lift; • construct new toilets in the Exhibition Hall; and • undertake minor amendments to the design and layout of the Western Foyer.
Development consent granted by:	Minister for Planning
On:	26 July 2004
Type of development:	State Significant Development
S.119 public inquiry held:	No

PART B—NOTES RELATING TO THE MODIFICATION OF DEVELOPMENT CONSENT NO. MOD 136-11-2006***Responsibility for other approvals/ agreements***

The applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

Appeals

The Applicant has the right to appeal to the Land and Environment Court under Section 97 of the *Environmental Planning and Assessment Act, 1979*. The right to appeal is only valid, for a development application, within **12** months after the date on which the Applicant received this notice.

Appeals—Third Party

A third party right to appeal to this development consent is available under Section 123, subject to Section 101, of the *Environmental Planning and Assessment Act, 1979*.

Legal notices

Any advice or notice to the consent authority shall be served on the Director-General.

PART C—DEFINITIONS

The definitions within this modification are consistent with the definitions in Schedule 1 of the consent to development application DA 253-10-2004.

SCHEDULE 2**MODIFICATION (MOD 136-11-2006) OF DEVELOPMENT CONSENT TO
DEVELOPMENT APPLICATION NO. DA 43-2-2004***The development consent is modified as follows:***ADMINISTRATIVE CONDITIONS****2. Development in Accordance with Plans****Insert** the following text and table below the existing table in Condition 2:

As modified by:

The Section 96(2) modification application (136-11-2006) lodged by Sydney Opera House Trust on 15 November 2006.			
Sydney Opera House Western Loggia and Foyer Refurbishment – Architect's Statement Section 96 Application, Prepared by Utzon Architects and Johnson Pilton Walker for the Sydney Opera House Trust, November 2006.			
Architectural (or design) drawings prepared by Utzon Architects and Johnson Pilton Walker			
Drawing No.	Revision	Name of Plan	Date
DA 001	002	Sydney Opera House Western Foyer Level +012 Existing Plan Indicative extent of works	November 2006
DA 002	002	Sydney Opera House Western Foyer Bennelong Lift – Level +001 Plans	November 2006
DA 003	002	Sydney Opera House Western Foyer Level +012 Proposed Plan	November 2006
DA 004	002	Sydney Opera House Western Foyer Bennelong Lift Level +030 Plans	November 2006
DA 010	001	Sydney Opera House Western Foyer Level +001 Plans Original DA and Section 96 Comparison	November 2006
DA 011	001	Sydney Opera House Western Foyer Level +012 Plans – Indicative Extent of Works Original DA and Section 96 Comparison	November 2006
DA 012	001	Sydney Opera House Western Foyer Level +012 Plans Original DA and Section 96 Comparison.	November 2006
DA 013	001	Sydney Opera House Western Foyer Level +030 Plans Original DA and Section 96 Comparison	November 2006

PRIOR TO COMMENCEMENT OF WORKS

Insert the following headings, conditions and advisory note after the existing Condition 6:

6 (a). *Construction of the Bennelong Lift and access corridor from Lower Concourse*

Prior to the commencement of construction of the Bennelong Lift and the access corridor from the lower concourse, as described in MOD 136-11-2006, the applicant must submit to the satisfaction of the PCA, structural drawings prepared and signed by a suitably qualified practising Structural Engineer that comply with:

- (1) the relevant clauses of the Building Code of Australia;
- (2) the development consent, as modified by MOD 136-11-2006;
- (3) drawings and specifications comprising the Construction Certificate, as modified; and
- (4) The relevant Australian Standards listed in the BCA.

NOTE: Prior to commencement of works associated with MOD 136-11-2006, the applicant must obtain a modified construction certificate for these works.

6(b). *Refurbishment of Western Foyer*

Prior to installation, the applicant must submit all details of the layout and selection of the flooring, furniture and fittings for the refurbishment of the Western Foyer as described in MOD 136-11-2006, to the satisfaction of the NSW Heritage Office.

6(c). *Construction Management Plan*

Prior to the commencement of construction of the Bennelong Lift and the access corridor from the lower concourse, as described in MOD 136-11-2006, the applicant must submit a Construction Management Plan to the satisfaction of the PCA including:

- Structural details of the proposed access corridor and the Bennelong Lift;
- A geotechnical report prepared by a suitably qualified practising Structural Engineer to demonstrate the structural appropriateness of constructing the corridor at the location described in MOD 136-11-2006, including a consideration of any potential impacts of the excavation works on the existing structure above;
- Excavation techniques and methods to be utilised for the construction of the access corridor and the lift;
- Measures to ensure the implementation of an appropriate heritage investigation methodology in accordance with Condition 14(b);
- Commitment to the approved hours of construction; and
- Measures to control dust and noise.

DURING CONSTRUCTION***Heritage***

Insert a new condition after Condition 14 as follows:

14(a). *Excavation works*

The excavation works undertaken in association with the construction of the lower access corridor and the Bennelong Lift, as described in MOD 136-11-2006, must be undertaken in accordance with the Archaeological Research Design proposal described in Section 5 of "Sydney Opera House, Bennelong Lift Archaeological Assessment and Heritage Impact Statement (November 2006)", prepared by Godden Mackay Logan, which accompanied the modification application MOD 136-11-2006.

PRIOR TO OCCUPATION OR COMMENCEMENT OF USE

Insert a new condition note after Condition 22, as follows:

22(a). *Structural Inspection Certificate – construction of the Bennelong Lift and lower access corridor*

A Structural Inspection Certificate or a Compliance Certificate must be submitted to the satisfaction of the PCA prior to the issue of an interim Occupation Certificate related to the Bennelong Lift and Lower Access corridor. A copy of the Certificate with an electronic set of final drawings (contact consent authority for specific electronic format) shall be submitted to the consent authority and the Council after:

- (1) The site has been periodically inspected and the Certifier is satisfied that the Structural Works is deemed to comply with the final Design Drawings; and,
- (2) The drawings listed on the Inspection Certificate have been checked with those listed on the final Design Certificate/s.

SCHEDULE 1**PART A—TABLE**

Application made by:	Sydney Opera House Trust Bennalong Point, Sydney
Application made to:	Minister for Infrastructure and Planning
Development Application:	No. 43-2-2004
On land comprising:	Sydney Opera House Bennalong Point, Sydney
For the carrying out of:	Upgrade and refurbishment of Western Broadwalk and Western Foyer, including a new loggia, new framed openings to the western podium walls, unified foyer space and lift access from the lower concourse, podium and box office foyer levels
Estimated Cost of Works	\$21,983,000
Type of development:	State Significant Development
S.119 Public inquiry held:	No
Approval Body / Bodies:	Not Integrated
BCA building class:	9B
Determination made on:	26 July 2004
Determination:	A development consent is granted subject to the conditions in the attached Schedule 2.
Date of commencement of consent:	This development consent commences on the date identified in the accompanying letter.
Date consent is liable to lapse	This consent will lapse 5 years from the date of commencement of consent, unless: <ul style="list-style-type: none"> ▪ a shorter period of time is specified by the Regulations or a condition in Schedule 2, or ▪ the development has substantially commenced.

PART B—NOTES RELATING TO THE DETERMINATION OF DA NO. 414-9-2003***Responsibility for other approvals / agreements***

The applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

Appeals

The applicant has the right to appeal to the Land and Environment Court under Section 97 of the *Environmental Planning and Assessment Act, 1979*. The right to appeal is only valid:

- (1) for a development application, within 12 months after the date on which the applicant received this notice, or

- (2) for a modification to the consent, within 3 months after the date on which the application received this notice.

Appeals—Third Party

For designated development, a third party has the right to appeal to the Land and Environment Court on the merits of this decision under Section 98 of the *Environmental Planning and Assessment Act, 1979*. The right to appeal is only available within 28 days of the date of commencement of this consent.

A third party right to appeal to this development consent is available under Section 123, subject to Section 101, of the *Environmental Planning and Assessment Act, 1979*.

Legal notices

Any advice or notice to the consent authority shall be served on the Director-General.

PART C—DEFINITIONS

In this consent,

Act means the *Environmental Planning and Assessment Act, 1979* (as amended).

Applicant means Sydney Opera House Trust or any party acting upon this consent.

BCA means the Building Code of Australia.

Certifying Authority has the same meaning as Part 4A of the Act.

Council means City of Sydney Council

DA No. 43-2-2004 means the development application and supporting documentation submitted by the applicant on 18 February 2004.

Department means the Department of Infrastructure, Planning and Natural Resources or its successors.

Director-General means the Director-General of the Department.

Minister means the Minister for Infrastructure and Planning.

PCA means a Principal Certifying Authority and has the same meaning as Part 4A of the Act.

Regulations means the *Environmental Planning and Assessment Regulations, 2000* (as amended).

SCHEDULE 2

CONDITIONS OF CONSENT

DEVELOPMENT APPLICATION NO. 43-2-2004

ADMINISTRATIVE CONDITIONS

1. *Development Description*

Development consent is granted only to carrying out the development described in detail below:

Upgrade and refurbishment of the Western Broadwalk and Western Foyer space, involving a new external loggia, new framed openings to the western podium walls, unified foyer space and lift access from the lower concourse, podium and box office foyer levels.

2. *Development in Accordance with Plans*

The development shall be generally in accordance with development application number DA 43-2-2003 submitted by the applicant on 18 February 2004, and in accordance with the supporting documentation submitted with that application, including, but not limited to, the following:

Statement of Environmental Effects for Alterations and Additions to Western Broadwalk and Foyer Area at the Sydney Opera House including annexures, prepared on behalf of the Sydney Opera House Trust by Byrnes and Associates Pty Ltd, dated 16 February 2004.			
Sydney Opera House Western Loggia and Foyer Refurbishment – Architect's Statement, Prepared for the Sydney Opera House Trust, February 2004			
Architectural (or Design) Drawings prepared by <i>Utzon Architects</i>			
Drawing No.	Revision	Name of Plan	Date
DA 001	000	SOH VIP – Western Loggia & Foyers – Site Plan – Level 012 – Indicative extent of works	January 2004
DA 002	000	SOH VIP – Western Loggia & Foyers Level 001 – Plan – Proposed	January 2004
DA 003	000	SOH VIP – Western Loggia & Foyers Level 012 – Plan – Proposed	January 2004
DA 004	000	SOH VIP – Western Loggia & Foyers Level 030 – Plan – Proposed	January 2004
DA 005	000	SOH VIP – Western Loggia & Foyers Roof Plan – Proposed	January 2004
DA 006	000	SOH VIP – Western Loggia & Foyers West Elevation – Proposed	January 2004

DA 007	000	SOH VIP – Western Loggia & Foyers Longitudinal Section and details	January 2004
DA 008	000	SOH VIP – Western Loggia & Foyers Sectional Perspective looking north	January 2004

The Section 96(2) modification application (136-11-2006) lodged by Sydney Opera House Trust on 15 November 2006.			
Sydney Opera House Western Loggia and Foyer Refurbishment – Architect's Statement Section 96 Application, Prepared by Utzon Architects and Johnson Pilton Walker for the Sydney Opera House Trust, November 2006.			
Architectural (or design) drawings prepared by Utzon Architects and Johnson Pilton Walker			
Drawing No.	Revision	Name of Plan	Date
DA 001	002	Sydney Opera House Western Foyer Level +012 Existing Plan Indicative extent of works	November 2006
DA 002	002	Sydney Opera House Western Foyer Bennelong Lift – Level +001 Plans	November 2006
DA 003	002	Sydney Opera House Western Foyer Level +012 Proposed Plan	November 2006
DA 004	002	Sydney Opera House Western Foyer Bennelong Lift Level +030 Plans	November 2006
DA 010	001	Sydney Opera House Western Foyer Level +001 Plans Original DA and Section 96 Comparison	November 2006
DA 011	001	Sydney Opera House Western Foyer Level +012 Plans – Indicative Extent of Works Original DA and Section 96 Comparison	November 2006
DA 012	001	Sydney Opera House Western Foyer Level +012 Plans Original DA and Section 96 Comparison.	November 2006
DA 013	001	Sydney Opera House Western Foyer Level +030 Plans Original DA and Section 96 Comparison	November 2006

3. Prescribed Conditions

The Applicant shall comply with the prescribed conditions of development consent under clause 98 of the Regulation.

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

4. Disabled Access

The proposed wheelchair lift access to the Western Foyer Area shall be provided in accordance with Part D3 of the BCA's Access Policy. Prior to the issue of a Construction Certificate, a certificate certifying compliance with this condition from an appropriately qualified person shall be provided to the Certifying Authority.

Compliance

5. Compliance Report

Prior to the issue of a Construction Certificate, the Applicant, or any party acting upon this consent, shall submit to the Department a report addressing compliance with all relevant conditions of this consent.

PRIOR TO COMMENCEMENT OF WORKS

Structural Works

6. Structural Details

Prior to the commencement of construction, the Applicant shall submit to the satisfaction of the PCA structural drawings prepared and signed by a suitably qualified practising Structural Engineer that comply with:

- (1) the relevant clauses of the Building Code of Australia,
- (2) the relevant development consent,
- (3) drawings and specifications comprising the Construction Certificate, and
- (4) the relevant Australian Standards listed in the BCA (Specification A1.3).

6(a). Construction of the Bennelong Lift and access corridor from Lower Concourse

Prior to the commencement of construction of the Bennelong Lift and the access corridor from the lower concourse, as described in MOD 136-11-2006, the applicant must submit to the satisfaction of the PCA, structural drawings prepared and signed by a suitably qualified practising Structural Engineer that comply with:

- (1) the relevant clauses of the Building Code of Australia;
- (2) the development consent, as modified by MOD 136-11-2006;
- (3) drawings and specifications comprising the Construction Certificate, as modified; and
- (4) The relevant Australian Standards listed in the BCA.

NOTE: Prior to commencement of works associated with MOD 136-11-2006, the applicant must obtain a modified construction certificate for these works.

6(b). Refurbishment of Western Foyer

Prior to installation, the applicant must submit all details of the layout and selection of the flooring, furniture and fittings for the refurbishment of the Western Foyer as described in MOD 136-11-2006, to the satisfaction of the NSW Heritage Office.

6(c). Construction Management Plan

Prior to the commencement of construction of the Bennelong Lift and the access corridor from the lower concourse, as described in MOD 136-11-2006, the applicant must submit a Construction Management Plan to the satisfaction of the PCA including:

- Structural details of the proposed access corridor and the Bennelong Lift;
- A geotechnical report prepared by a suitably qualified practising Structural Engineer to demonstrate the structural appropriateness of constructing the corridor at the location described in MOD 136-11-2006, including a consideration of any potential impacts of the excavation works on the existing structure above;
- Excavation techniques and methods to be utilised for the construction of the access corridor and the lift;
- Measures to ensure the implementation of an appropriate heritage investigation methodology in accordance with Condition 14(b);
- Commitment to the approved hours of construction; and
- Measures to control dust and noise.

DURING CONSTRUCTION

Structural Works

7. Setting Out of Structures

The building shall be set out by a registered surveyor to verify the correct position of each structure in relation to property boundaries and the approved alignment levels. The registered surveyor shall submit a plan to the PCA certifying that structural works are in accordance with the approved development application.

Construction Management

8. Approved Plans to be On-site

A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the site at all times and shall be readily available for perusal by any officer of the Department, Council or the PCA.

Hours of Work and Noise

9. Construction Noise

Noise associated with any construction work, including demolition, excavation and building work must comply with 'The City of Sydney Code of Practice for Construction Hours/Noise 1992' and the Australian Standard 2436:1981 'Guide to Noise Control on Construction, Maintenance and Demolition Sites'.

10. Hours of External Construction Work

The hours of construction for external works shall be restricted as follows:

- (1) between 7:00 am and 6:00 pm, Mondays to Fridays inclusive;

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- (2) between 8:00 am and 1:00 pm, Saturdays;
 - (3) no work on Sundays and public holidays.

11. Hours of Internal Construction Work

The hours of construction for internal works shall be permitted to be carried out at any time during any 24 hour period, on any day of the week for the period specified in Condition No 12, providing the work does not unreasonably impact on the amenity of the patrons of the Sydney Opera House or surrounding residents.

12. Limited Period for Hours of Internal Construction Work

Consent for a 24-hour working period set out in Condition No 11 shall be limited to 18 months from the date of commencement of works. Prior written approval of the Senior Planner, Urban Assessments, shall be obtained before these extended hours continue beyond the 18 month period. Should the applicant not be granted this extension, all construction work after this trial period shall occur only between the hours specified within the 'City of Sydney Code of Practice for Construction Hours/Noise 1992'.

NOTE: Any submission to extend the 24 hour working period beyond the permitted 18 months should address any likely impacts the 24 hour working period may have on amenity of the patrons of Sydney Opera House or surrounding residents. It should also include details of any complaints received in relation to construction works, and appropriate mitigation measures undertaken to address these complaints.

13. Contact Telephone Number

Prior to the commencement of the works, the Applicant shall forward to the Department and Council a 24 hour telephone number to be operated for the duration of the construction works.

Heritage

14. Heritage Superintendent

Works on heritage components of the site shall be superintended by a consultant(s) experienced in the conservation of similar heritage buildings.

14(a). Excavation works

The excavation works undertaken in association with the construction of the lower access corridor and the Bennelong Lift, as described in MOD 136-11-2006, must be undertaken in accordance with the Archaeological Research Design proposal described in Section 5 of "Sydney Opera House, Bennelong Lift Archaeological Assessment and Heritage Impact Statement (November 2006)", prepared by Godden Mackay Logan, which accompanied the modification application MOD 136-11-2006.

15. Use of Experienced Tradesmen

Works on heritage components of the site shall be carried out by suitably qualified tradesmen with practical experience in the conservation and restoration of similar heritage buildings.

Compliance

16. Compliance Report

The Applicant, or any party acting upon this consent, shall, for the duration of construction period, submit to the Department a three monthly report addressing compliance with all relevant conditions of this consent. This compliance report shall include details of any complaints received in relation to the construction of the proposed works.

PRIOR TO OCCUPATION OR COMMENCEMENT OF USE

Use of External Loggia Area

17. Outdoor Furniture

Any outdoor furniture shall be confined to the area within the loggia and shall not obstruct the entry foyers. The placement of outdoor furniture within the loggia is to be minimised, and shall be consistent with relevant policies contained within the Conservation Management Plan.

18. Public access

The spaces between the loggia piers must not be enclosed, and public access to the area within the loggia shall be maintained at all times.

19. External Lighting

Any external lighting of the loggia shall comply, where relevant, with AS/NZ1158.3:1999 Pedestrian Area (Category P) Lighting, AS4282:1997 Control of Obtrusive Effects of Outdoor Lighting, and relevant policies contained within the Conservation Management Plan.

Engineering

20. Fire Safety Certificate

A Fire Safety Certificate shall be furnished to the PCA for all the Essential Fire or Other Safety Measures forming part of this approval prior to issue of an Occupation Certificate. A copy of the Fire Safety certificate must be submitted to the consent authority and Council by the PCA.

21. Annual Fire Safety Statement

An Annual Fire Safety Statement must be provided to Council and the NSW Fire Brigade within 12 months of the consent authority receiving the initial Fire Safety Certificate.

22. Structural Inspection Certificate

A Structural Inspection Certificate or a Compliance Certificate must be submitted to the satisfaction of the PCA prior to the issue of an Occupation Certificate and/or use of the premises. A copy of the Certificate with an electronic set of final drawings (contact consent authority for specific electronic format) shall be submitted to the consent authority and the Council after:

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- (1) The site has been periodically inspected and the Certifier is satisfied that the Structural Works is deemed to comply with the final Design Drawings; and,
 - (2) The drawings listed on the Inspection Certificate have been checked with those listed on the final Design Certificate/s.

22(a). *Structural Inspection Certificate – construction of the Bennelong Lift and lower access corridor*

A Structural Inspection Certificate or a Compliance Certificate must be submitted to the satisfaction of the PCA prior to the issue of an interim Occupation Certificate related to the Bennelong Lift and Lower Access corridor. A copy of the Certificate with an electronic set of final drawings (contact consent authority for specific electronic format) shall be submitted to the consent authority and the Council after:

- (1) The site has been periodically inspected and the Certifier is satisfied that the Structural Works is deemed to comply with the final Design Drawings; and,
- (2) The drawings listed on the Inspection Certificate have been checked with those listed on the final Design Certificate/s.

Compliance

23. *Compliance Report*

The Applicant, or any party acting upon this consent, shall submit to the Department a three monthly report addressing compliance with all relevant conditions of this consent.

ADVISORY NOTES

AN1 Compliance with Building Code of Australia

The applicant is advised to consult with the PCA about any modifications needed to comply with the BCA prior to submitting the application for a Construction Certificate.

AN2 Structural Capability for Existing Structures

The structural capabilities of an existing structure will need to meet the requirements of the BCA and may require engaging a structural engineer.

AN3 Noise Generation

Any noise generated during the construction of the development shall not exceed the limits specified in the *Protection of the Environment Operations Act, 1997* or exceed approved noise limits for the site.