



Sydney Opera House

Tours Immersive Digital Experience

Section 4.55 (1A) Modification Report for DA 43-2-2004 Modification 5

Prepared by the Sydney Opera House Trust September 2019



(Source: Artists in Motion)

The Sydney Opera House honours our First Nations peoples by fostering a shared sense of belonging for all Australians, and we acknowledge the Gadigal people, traditional custodians of Tubowgule, the land on which the Opera House stands.



Executive Summary

The Concert Hall of the Sydney Opera House will close for about two years in 2020 for significant Renewal works. This closure will decrease the number of overall performances and patron numbers, with flow-on effects that will affect other areas of the Opera House, including public tours. To mitigate financial losses during these Concert Hall works, the Opera House is maximising the use of other venues and streamlining its operations. Another key mitigation measure is the proposed Tours Immersive Digital Experience (TIDE).

The TIDE, the subject of this proposal, will be an original, cutting-edge immersive digital experience inside a purpose-built room. The TIDE will use technologies that are globally unique and industry leading while connecting visitors to the Concert Hall digitally during its closure. The intention is that the experience will enhance tours during the Concert Hall closure period and continue to support tours once the Concert Hall reopens.

The identified TIDE space is a 115m² storage area, ideally located near the Western Foyers and close to the tours starting point, is easily accessible on the ground floor of the Opera House and has the size and height to accommodate the required technology. The TIDE will run for about five minutes and will form part of the standard Opera House one-hour tour. The content will focus on the performing arts and the heritage significance of the Opera House.

To support this proposal, the Sydney Opera House Trust (SOHT) requests to modify the State significant development consent (DA 43-2-2004) for the Accessibility and Western Foyers Project. Minimal building works are required to facilitate the new use of this space, which has a maximum capacity of 70 persons. The proposed works are considered minor, and the use is consistent with existing uses. Accordingly, the proposal does not warrant a new development application.

This Modification Report is prepared by the SOHT and submitted to the Department of Planning, Industry and Environment (DPIE) pursuant to Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act). This application is the fifth modification (MOD 5) sought to DA 43-2-2004. A separate notification to the Heritage Division under section 57(2) of the *Heritage Act 1977* is required for this proposal following planning approval.

This report is supported by architectural drawings prepared by Scott Carver Architects and relies on the conclusions of the Heritage Impact Statement (HIS) prepared by Design 5 regarding the heritage listings of the Opera House and the *Sydney Opera House Conservation Management Plan Fourth Edition* (CMP4).

Given the minor nature of the proposal, targeted assessment of the potential environmental impacts has been undertaken. This Modification Report demonstrates that:

- there would be minimal environmental impacts as a result of this proposal;
- the proposal is substantially the same as the original approved development (DA 43-2-2004); and
- the proposal is consistent with CMP4 and will have no impact on the heritage significance of the Opera House.

Based on this Modification Report, the SOHT considers that the project responds positively to the strategic and statutory planning framework, and adverse environmental impacts of the project are negligible. The SOHT therefore requests that the modification application is approved under the appropriate Ministerial delegation.



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1 The Sydney Opera House

The Opera House is located on a peninsula on the eastern side of Circular Quay known as Bennelong Point (**Figure 1**). The site is legally described as Lot 4 in DP 787933 and Lot 5 in DP 775888.

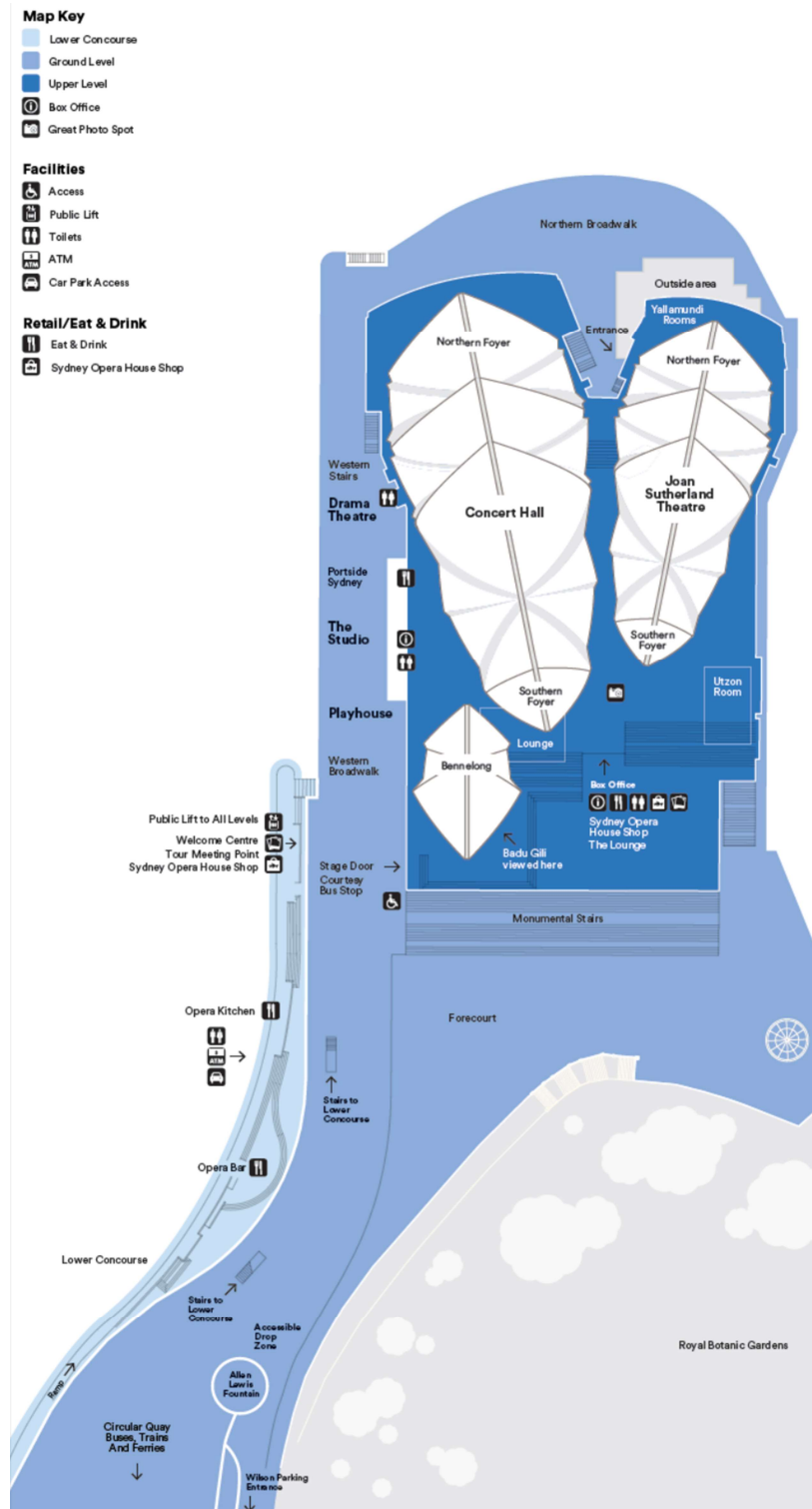


Figure 1: Sydney Opera House site



The Opera House comprises three main sets of white 'shells' which sit on top of a large podium structure. The three sets of shells each house:

- the Concert Hall on the western side of;
- the Opera Theatre (Joan Sutherland Theatre) on the eastern side; and
- Bennelong Restaurant, to the south of the Concert Hall.

The podium connects to a large open space (the Forecourt) via a large set of Monumental Steps. The Lower Concourse is below and to the western side of the Forecourt. On the western side of the building, the Forecourt leads to the Western Broadwalk from which the Western Foyers and three smaller theatre venues can be accessed.

The Opera House precinct adjoins the Royal Botanic Garden, Sydney to the east and East Circular Quay to the south-west. A mixed-use residential apartment building (Bennelong Apartments) is located to the south of the site at 1 Macquarie Street.

The Opera House is listed on the NSW State Heritage Register and the National and World Heritage Lists.

2 Western Foyers

On 29 June 2004, the then Minister for Infrastructure and Planning approved a State significant development application (DA) for the Accessibility and Western Foyers Project (DA 43-2-2004). The application was of State significance under the provisions of Schedule 1 of *State Environmental Planning Policy 56 – Sydney Harbour Foreshores and Tributaries (SEPP 56)*.

The upgrades were designed by original architect Jorn Utzon in association with Johnson Pilton Walker, and are a demonstration of how change can be accommodated within the framework of the *Utzon Design Principles (UDP)*.

The key objectives of DA 43-2-2004 were to provide functional improvements to existing facilities, in keeping with the original building, to:

- develop the site for the benefit of future generations of audiences and visitors;
- address practical limitations and improve access for people with disabilities; and
- link the western venues with the Box Office foyer and its venues.

The Western Foyers serve the Drama Theatre, Studio and Playhouse venues of the Opera House. Copies of the original development consent (and subsequent modifications) are provided at **Appendix 1**.

Some of the key works permitted by the consent are pictured in **Figure 2** and include:

- the creation of a unified foyer space within the Podium servicing the Drama Theatre, the Studio and the Playhouse;
- functional and aesthetic upgrades including new box office, cloakroom, amenities, kitchen (cool room and food preparation) and three bars;
- creation of a new Colonnade with undercover seating for patrons; and
- a new lift (Bennelong lift) providing level access from the Lower Concourse to the Box Office levels.

Following State planning approval for the upgrades, the NSW Heritage Office provided approval for the development under Part 4 of the *Heritage Act 1977*.

The Bennelong lift has substantially improved wheelchair access within the Opera House, providing patrons with flat access from the Lower Concourse and Covered Concourse to the Box Office Foyer.

The Colonnade component of the development opened in 2006 and the upgrades to the Western Foyers and new lift in 2009.

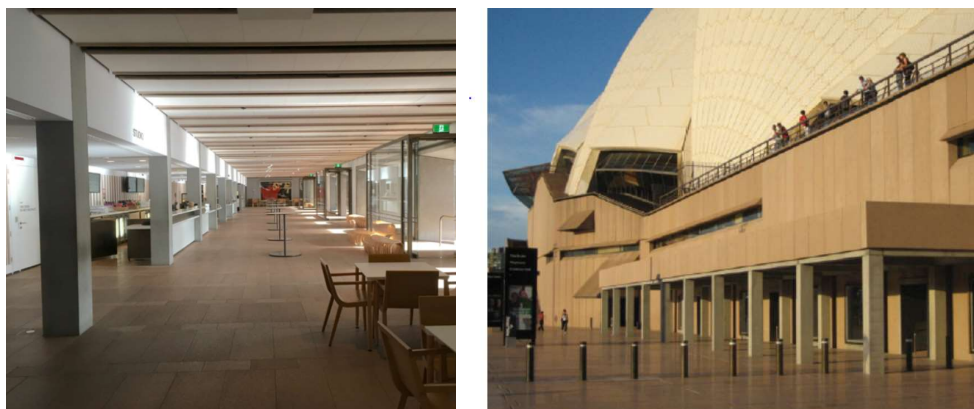


Figure 2: Western Foyers (left) and Colonnade (right). Source CMP4.

2.1 Modifications to DA 43-2-2004

The approved development has been modified on four occasions. A summary of the approved modifications is provided in Table 1 below.

Table 1: Modifications to DA 43-2-2004

MOD No.	Summary of modifications	Approval authority	Type	Approval Date
MOD 1 136-11-2006	<ul style="list-style-type: none"> excavation works to 3.7m below the Western Broadwalk for a new lift access corridor approximately 50m in length and varied in width from approximately 3.5m to 12m; relocation of the Bennelong lift door opening and lift lobby to provide access from the Lower Concourse to the Bennelong lift; new toilets in the former exhibition hall space; and minor amendments to the design and layout of the Western Foyer (including revised cloakroom and bar facilities). 	DPIE	Former 96(2)	7 March 2007
MOD 2 86-11-2007	The temporary use of part of the Western Broadwalk including the erection of a temporary marquee for two separate 6-month periods in 2008 and 2009 for the purposes of a spill out area for patrons whilst upgrade work on the Western Foyer was undertaken.	DPIE	Former 96(2)	28 December 2007
MOD 3 16-5-2008	For the erection of a temporary structure referred to as the Spiegeltent on the Southern Forecourt of the Opera House for 31 days within October and November 2008 to correspond with closure of the Studio due to development works at the Western Foyer and Studio Entrance.	DPIE	Former 96(2)	23 June 2008
MOD 4 57-8-2008	The extension of the Spiegeltent hours of operation by 30 minutes.	DPIE	Former 96(1A)	18 August 2008

Modification number 5 (MOD 5) is this proposal which seeks to extend the footprint of DA 43-2-2004 and convert a 115m² storage area to the TIDE venue. **Figure 3** illustrates the extent of the proposal compared with the approved footprint under DA 43-2-2004 (inclusive of modifications).

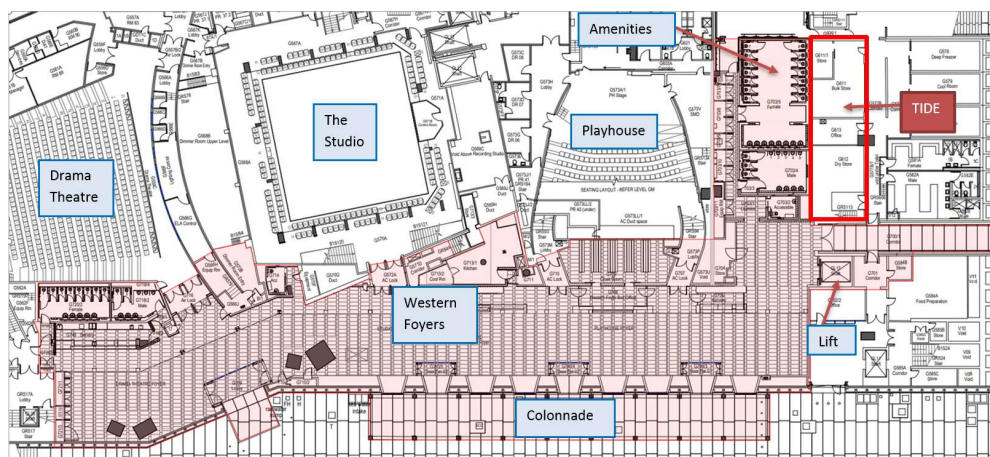


Figure 3: Location of TIDE near the Western Foyers amenities (the footprint of DA 43-2-2004 MOD 1 is shaded pink).

3 Existing uses

The existing uses of the Western Foyer spaces are permitted under the *Sydney Opera House Trust Act 1961*, the 'Portside' liquor licence and DA 43-2-2004 (as modified).

The existing uses can be summarised as:

1. a food and beverage outlet and bar (currently trading as Portside); and
2. a tourist and cultural precinct used for tours, creative play (e.g. during school holidays), pop-up activations such as book and merchandise sales during events, occasional exhibitions, talks and presentations.

3.1 Western Foyers

The Western Foyers are the continuous, amalgamated foyers which support three performing arts venues (Drama Theatre, Studio and Playhouse) with bars, kitchen and store facilities, cloakroom and box office and amenities. The Western Foyers are also used as a multipurpose space for a range of activities such as tours, creative play (an interactive art program designed for children) and occasional exhibitions. Only minimal temporary promotional signage is acceptable in this space, with an emphasis on fine design quality and consistency.

Essentially, the Western Foyers provide on-site participatory experiences and amenities which complement seeing a performance, taking a tour or visiting the building.

The Western Foyers are accessed via:

- Western Broadwalk;
- Passageway from the Covered Concourse (Bennelong Passage); and
- Bennelong lift, accessed at the Box Office and the Lower Concourse levels.

3.2 The Colonnade

The Colonnade structure is partly occupied by a café (currently trading as Portside) which is serviced by a back of house kitchen. Café patrons enjoy exceptional harbour views from within the Colonnade.

The furniture and related objects such as waiter stations, signage and heaters have been carefully selected to respect the qualities and character of the Western Foyer, Colonnade and their relationship to the harbour.



3.3 Tours at the Opera House

Tours have been operating at the Opera House since the construction phase of the building in 1959. They are, in fact the longest-standing 'experience' in the building and have welcomed millions of guests to the site over the past 50 years. The number of people taking a guided tour of the building has increased about 80% in the past five years to more than 550,000 per annum, with over 52% of tour patrons taking an Asian-language tour.

The Opera House tours are based on the site being a busy and world-renowned performing arts centre with State, National and World heritage significance. The tour content includes an in-depth explanation of the emotive history behind the conception and delivery of the building and anecdotal stories regarding performances and events.

Tours meet and commence at the Welcome Centre and typically move through the Western side of the building to areas such as the Western Foyers and Drama Theatre then move on to the Northern Foyer, Concert Hall and when available, the Opera Theatre (Joan Sutherland Theatre).

The main tour is an hour-long guided tour with patrons using headsets. Other tours include the Backstage tour (two hours), Access tour, Junior tour (school holidays) and language tours (offered in seven languages).

The impending Concert Hall closure has provided an opportunity for the Opera House to rethink the future of tours and the experiences offered. Without proactive mitigation during Concert Hall closure, it is expected tour numbers will decline.

Table 2 summarises the existing use conditions for the Western Foyers and Colonnade.

Table 2: conditions of use

Aspect of use	Statutory instrument	Detail
Trading hours (for the food and beverage outlet)	Liquor licence (Commenced 28 September 2016)	Mon-Sat 10am-1:30am Sunday 10am – 12am
Patron limits	Liquor licence	1580 persons
Noise	Liquor licence	No adverse impact on amenity
Furniture and bars in the colonnade	S60 Heritage Division approval for: 34 tables, 124 chairs and 4 waiter stations (outdoor bars)	The Heritage Division approval for furniture is subject to the following requirements: <ul style="list-style-type: none">the tables and seats should be arranged in accordance with an approved layout so that waiters walk within the colonnade rather than outside the colonnade; andthe seats and tables should be located wholly within a line transcribed by the inside face of the columns of the colonnade.
	DA 43-2-2004	Condition 17: 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 consistent with CMP4.
Public access	DA 43-2-2004	Condition 18: The spaces between the loggia piers must not be enclosed, and public access to the area within the loggia shall always be maintained.

* Loggia is another name for the Colonnade.



4 Need for the TIDE

The Opera House is currently undergoing its largest period of change since opening in 1973, through the Building Renewal Program (Renewal). This Renewal includes several works packages and development applications including:

- upgrades to the Joan Sutherland Theatre (JST) Machinery Project (SSD 7639);
- Function Centre and Related Works (SSD 7881); and
- Concert Hall and Creative Learning Centre (SSD 8663).

Subject to (pending) approval of SSD 8663, the Concert Hall will close for about 24 months from February 2020.

An approval (2016/7825) under the *Environmental Protection and Biodiversity Conservation Act 1999* (EPBC Act) was obtained for the package of works comprising the operational enhancements, accessibility upgrades and improved work, health and safety standards in the JST, Entry Foyer and Function Centre. This approval required the submission and approval of a five-year *Renewal Interpretation Strategy 2017* (RIS).

The approved RIS included the commitment to “*scope and develop a minimum of one immersive virtual Opera House experience onsite during the Concert Hall Renewal*”. The TIDE addresses the RIS and has been developed in accordance with the interpretive themes in the RIS.

The content of the TIDE will focus on the Concert Hall during its closure. This addition to the tour experience will help maintain visitor engagement during the venue closure to help to minimise potential tour revenue losses. When the venue reopens, the content opportunities are considered endless.

Accordingly, the proposal is essential to:

- comply with the RIS and EPBC approval 2016/7825;
- ensure the Opera House remains appealing during Concert Hall closure and help deliver a consistently excellent customer experience; and
- minimise financial disruption during Concert Hall Renewal and provide for continuity of employment for tour staff during its closure.

5 Objectives of the Proposal

The TIDE has several objectives, being to:

- repurpose three adjoining back of house (BOH) storage rooms into a front of house (FOH) area, connecting the space to the Western Foyers;
- deliver an audio-visual ‘immersive’ experience that stirs positive emotions, sparking word of mouth interest in taking a tour;
- provide a compelling reason for visitors to come inside and take a tour – despite the Renewal works – rather than simply taking a photo of the building;
- create an experience that reflects the world-class standard that people come to expect from the Opera House and that creates a connection for the visitor to the Concert Hall during its closure; and
- showcase the best in new technology and innovation.

6 Proposed works

It is proposed to repurpose three adjoining BOH food and beverage storage spaces located off Bennelong Passage, near the Western Foyers (see **Figure 4**). The spaces are currently used by an Opera House food and beverage operator as a culinary store, office and cool room.

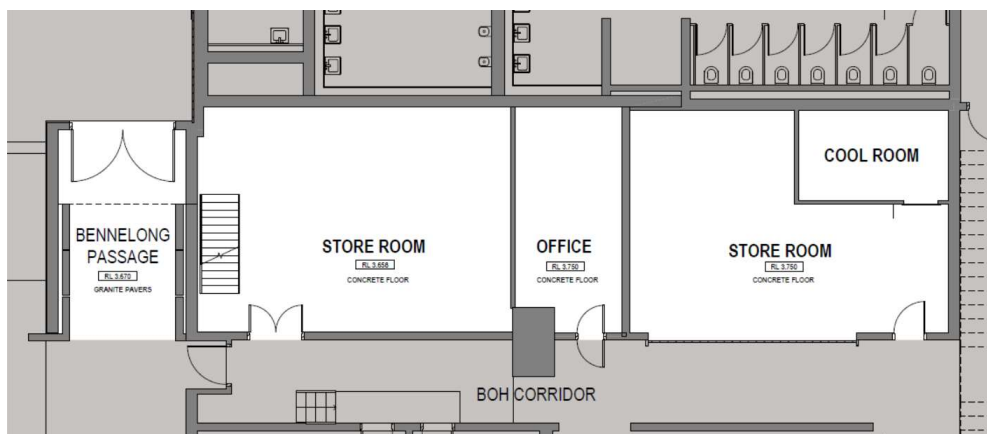


Figure 4: Existing ground floor level plan

The use of these spaces has evolved according to need (as detailed in CMP4). In 1973, the area was part of a larger FOH exhibition hall. In the 1990s, the spaces were converted to BOH stores.

The strip-out/demolition of these three spaces includes:

- removal of the internal walls that separate the existing store rooms and office to create one space of 115m² (9.6m L x 5.8m W x 4.2m H); and
- removal of existing fire curtain, internal stairs and mezzanine floor and cool room.

These works and the relocation of food and beverage items to other locations within the Opera House does not form part of this application (these works are 'exempt' development under the relevant planning and heritage instruments).

The TIDE space, with its high ceilings (about 2.7 metres) is well suited to an immersive experience curated with a focus on new technology that can be updated relatively easily in the future. In addition, the space is ideally located at the northern end of Bennelong Passage where its use will not affect other parts of the building, including the existing performing arts venues of the Western Foyers.

Room capacity is 70 persons based on an internal area of 67m², although tour groups would be a maximum of 48 persons.

The physical changes to the building to support the TIDE are minimal and little change to significant fabric is proposed. This modification application includes the fit-out and use of the spaces as detailed in **Figure 5**, including:

- new fire curtain in Bennelong Passage;
- security upgrades to the area;
- new double sliding door off Bennelong Passage within concrete wall and signage for group access (see **Figures 6 & 7**);
- new BOH fire escape within the BOH Passage;
- creation of the 'digital immersion' space of about 67m², with floor, ceiling and general fit out consistent with the existing materiality of Peter Hall designed performance spaces (e.g. brush box walls and flooring, bronze/brass fixtures, warm indirect lighting);
- creation of a services zone (non-public area) with the digital technology including projectors; and
- installation of custom designed loose furniture.

The design has been created with a focus on minimal impacts to the building structure. The works will be designed to the requirements of the Building Code of Australia (BCA) (noting that some performance-based solutions may be necessary) and the Sydney Opera House Building Services Specification (BSS).

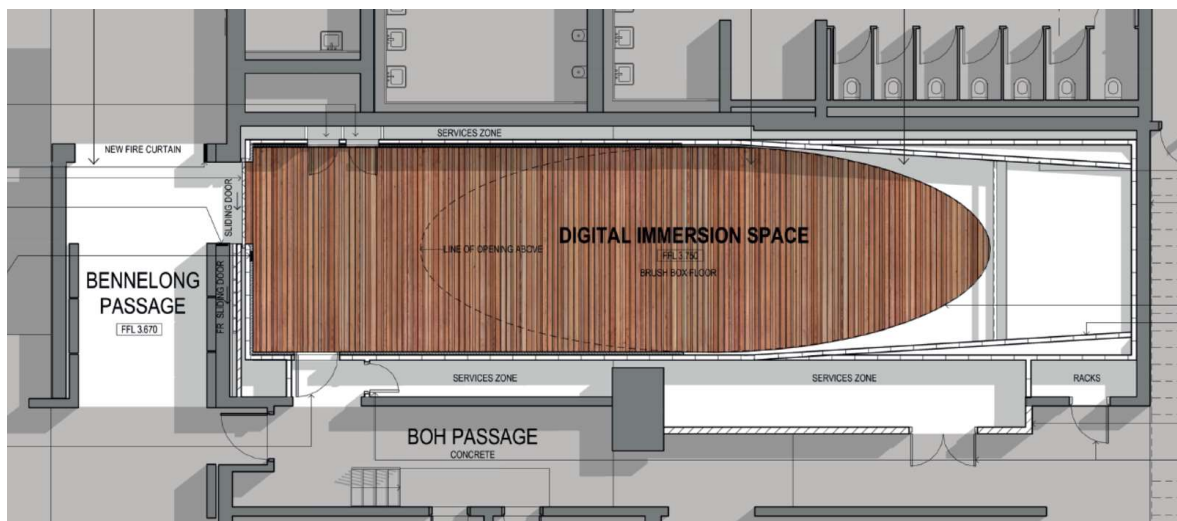


Figure 5: Proposed ground floor level plan

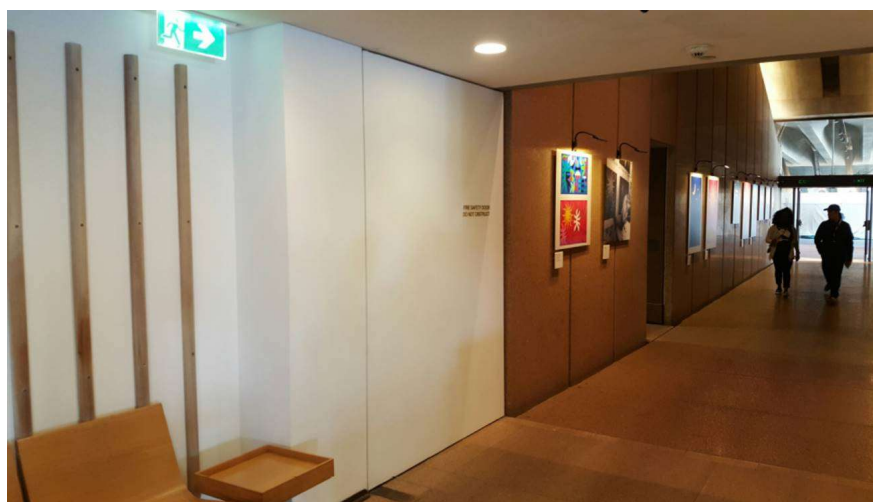


Figure 6: Existing view of Bennelong passage

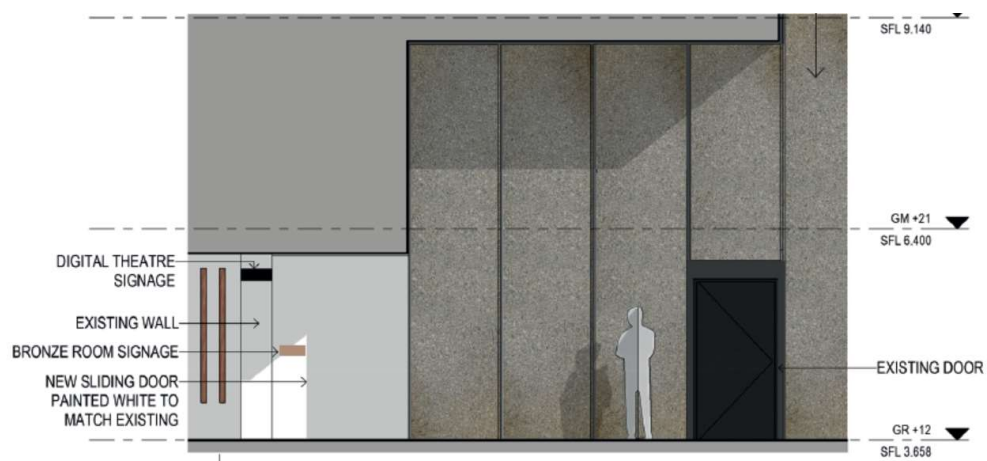


Figure 7: proposed new sliding door for group access



The existing services door in Bennelong Passage within the granite wall panels (see **Figures 6 & 7**) is currently used by food and beverage staff accessing the existing storage rooms. This use will not be required once the storage rooms are relocated within the Opera House and the TIDE use has commenced in early 2020.

Works will be ideally completed within an eight-week period.

7 Proposed Uses

The TIDE space will be predominantly used for an immersive experience as part of the Opera House 1-hour tour (see **Figure 8**).

Such uses were not anticipated when the Opera House was conceived or built. However, the current BOH use as a storage area for catering facilities can be easily relocated and the proposed use does not threaten or reduce the available space for activities directly related to the performing arts.

The Heritage Impact Statement (HIS) (**Appendix 3**) explores this issue in more detail and concludes the TIDE will not conflict with the presentation of the Opera House or compromise any primary uses or significant fabric.



Figure 8: Artists in Motion impression of the proposed TIDE

When the Concert Hall reopens the primary use of the space will remain with tours.

When the TIDE space is not required by tours, it is envisaged that it would be available for pop-up activations such as talks, exhibitions, presentations and potentially small performances which would be complemented by food and beverage (consistent with existing uses within the Western Foyers).

8 Consultation

The current proposal (design and content) is the result of a collaboration between Opera House staff, Artists in Motion, Scott Carver Architects and Design 5 Heritage experts. The proposal has been presented to the:

- Opera House Design Advisory Panel (DAP) in June, July and August 2019. The DAP provides advice to the SOHT and management on issues of architecture or design, and in relation to the management and conservation of the building. Overall, the DAP are supportive of the proposal.



- Opera House Conservation Council (CC) in July and August 2019. The CC provides advice to the SOHT on conservation and heritage-related matters. The CC is supportive of the proposal.
- Opera House staff met with DPIE, Office of Environment and Heritage and City of Sydney in June 2019 with positive feedback.
- Opera House staff presented a concept of TIDE to the Bennelong apartment residents on 31 July 2019 with no issues raised.

The final proposal is based on this consultation and has been carefully considered to balance the heritage significance of the building with its ongoing function as a living public building to be celebrated by existing and future generations.

The project team will continue to brief the DAP, CC and other stakeholders as the design and content progresses.

9 Proposed modification to conditions

The proposed modifications to the development consent comprise:

- changes to the approved plans to include the 115m² TIDE space;
- updates to the development description;
- new conditions relating to operating hours and capacity; and
- consequential updates to the conditions of the approved development consent.

The proposed modifications described above relate to minor building works at the Opera House to facilitate the development of the TIDE space and to connect this space with the Western Foyers.

Table 3: requested modification to conditions

Consent Part	Existing terms	Proposed terms
Development description	Alterations and additions to Western Foyer and Western Broadwalk, including construction of a service lift and external loggia.	Alterations and additions to Western Foyer and Western Broadwalk, including construction of a service lift and external loggia. Repurpose a 115m ² storage space to create the Tours Immersive Digital Experience (TIDE) for tours and other ancillary uses as described in DA 43-2-2004 MOD 5.
Schedule 2 Condition 2	List of approved plans.	Insert new plan details.
Schedule 2 Condition 9	Construction noise (outdated, delete).	Insert new condition as follows: "Noise associated with any construction work, including demolition and building work, must comply with the relevant provisions of Australian Standard 2436-2010 Guide to Noise Control on Construction, Maintenance and Demolition Sites, and the Interim Construction Noise Guideline (Department of Environment and Climate Change, 2009)."
Insert new condition	N/A	Hours of operation The hours of operation of the TIDE shall be between 7am and 11pm (7 days). (Note – this is consistent with the Welcome Centre operating hours approved under SSD 6353).
Insert new condition	N/A	Capacity The TIDE space shall accommodate no more than 55 persons participating in tours, and up to 70 persons for other activities.
Advisory Notes	N/A	Heritage Approval Prior to the commencement of any works, a notification under section 57(2) of the <i>Heritage Act 1977</i> must be submitted to the Heritage Council of NSW or its delegate.



10 Planning and heritage framework

The following statutory framework and environmental planning instruments applies to development on the Opera House site:

- *Environmental Protection and Biodiversity Conservation Act 1999* (EPBC Act)
- *Environmental Planning and Assessment Act 1979* (EP&A Act)
- *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation)
- *Heritage Act 1977* (Heritage Act)

This statutory framework – discussed briefly below, ensures that any proposal that may have a potential impact on the heritage significance and values of the place is rigorously assessed before any approval is granted. In addition, the framework ensures that off-site impacts are considered and mitigated to meet policy and statutory requirements.

10.1 EPBC Act

The Opera House is a World Heritage property and National Heritage place under the EPBC Act, and relates to two matters of national environmental significance under the EPBC Act.

Any works or 'actions' that may or are likely to have an impact on a declared World Heritage property or National Heritage place require the approval of the Commonwealth Minister for the Environment. The HIS (**Appendix 3**) considers the proposed minor works and uses would not have a potential or significant impact on matters protected under the EPBC Act. Therefore, no approval under the EPBC Act is necessary for the TIDE.

10.2 EP&A Act

The EP&A Act provides the statutory framework for planning in NSW. This Modification Report responds to Section 4.55 – modification of consents – generally; and Section 4.15(1)(a) – the environmental planning instruments that apply to the land.

10.3 EP&A Regulation

Clause 288 of the *Environmental Planning and Assessment Regulation 2000* requires the consent authority to consider the Sydney Opera House Management Plan 2005 (SOH Management Plan) when determining applications and proposals for change on the SOH site.

The SOH Management Plan specifies that the site's Conservation Management Plan (currently CMP4) and the Utzon Design Principles (UDP) should be relied on to determine the impact of the proposal on the heritage values of the site.

The SOH Management Plan requires development applications to be accompanied by a Heritage Impact Statement (HIS), including a consideration of the way in which the National and World Heritage Values (if any) are likely to be affected.

The relevant provisions of the SOH Management Plan have been considered in the HIS at **Appendix 3** and **Section 12.1** of this report.

10.4 Heritage Act

The Opera House is listed on the State Heritage Register. Provisions to protect and conserve State listed heritage items are generally located within the Heritage Act. All development applications at the Opera House require approval from the Heritage Council under the Heritage Act. For minor works, an exemption under section 57(2) can be sought instead of a section 60 application.



The Heritage Impact Statement (HIS) for the proposal concludes that the works and uses can be undertaken under certain Heritage Act exemptions (refer to **Section 12.1.2**).

10.5 Section 4.55 assessment

The Minister for Planning (or delegate) may modify the consent if it is satisfied the modification application meets the requirements of section 4.55 of the EP&A Act. An assessment of the modification application against these requirements is provided in **Table 4** below.

Table 4: Section 4.55 assessment

Section 4.55		Assessment
1A(a)	The proposed modification is of minimal environmental impact	<p>A modification with minimal impacts is taken to mean that the impacts associated with the proposed modification application are expected to be within the same scale as those that were approved under the original consent. SOHT considers that minimal impact proposals can include:</p> <ul style="list-style-type: none"> · changes to internal or external building layouts, · minor changes to scheduling of stages of projects, · minor design changes such as façade changes, or · minor intensification or expansion of activities at a site with 'very small' or 'negligible' overall environmental impacts. <p>While the proposal will increase the footprint of the area approved under the Western Foyers DA by 115m² (about 5%), it will not alter the overall footprint of the Opera House. Minor alterations are required to enable appropriate access to the new tour space.</p> <p>The proposal will not result in any adverse environmental impact, including adverse heritage, noise, amenity, access or construction impacts. These issues are considered in Section 12.</p> <p>Provided the existing (and proposed) conditions of consent are complied with, it is considered the proposal will result in minimal incremental environmental impact, relative to the approved works and uses.</p> <p>For these reasons, DPIE can be satisfied that the modified proposal is of minimal environmental impact. Accordingly, Section 4.55(1A) modification under the EP&A Act is considered an appropriate planning pathway for the proposal.</p>
1A (b)	The proposed development is substantially the same development as the development for which consent was originally granted	<p>The proposed works, though outside the footprint of the original application, are within the Opera House site and consistent with the objectives described in the approved development, and the uses permitted under the SOHT Act. The proposal is an essential Concert Hall closure mitigation measure. No changes are proposed to the original approved development. This issue is discussed further in section 10.6 below.</p>
1A (c)	The application has been notified in accordance with the regulations	<p>The application is required to be publicly notified for between two to four weeks. DPIE will consult with relevant State government agencies and the City of Sydney Council.</p>
1A (d)	Submissions have been considered	<p>DPIE will consult with relevant authorities. Any submissions will be considered by the SOHT.</p>
3	Relevant matters for consideration under section 4.15 of the EP&A Act	<p>The relevant matters for consideration under 4.15 of the EP&A Act are addressed in Section 11 of this report.</p>



10.6 Substantially the same development

The key measure for all modifications is whether the proposal results in a development that is 'substantially the same'.

Section 4.55 1(A)(b) prescribes that a consent authority may modify a development consent only if "it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all)".

It is noted that:

- a development can be substantially the same even if the development as modified involves new 'land';
- if the development as modified involves an 'additional and distinct land use' it is not substantially the same;
- in addition to the physical differences, the environmental impacts of the proposal should be consistent with the approved development.

A comparison between DA 43-2-2004 and the proposal is provided in **Table 5** below.

Table 5: comparison between the approved and proposed development

Component	Original	This proposal	Substantially the same
Development Objective of the Opera House and the Western Foyers DA	<p>The SOHT has the following objects and functions (as specified in the SOHT Act):</p> <ul style="list-style-type: none"> • the management and administration of the Opera House as a theatre, concert hall and place of assembly to be used as a place for the presentation of any of the branches of the musical, operatic, dramatic, terpsichorean, visual or auditory arts or as a meeting place in respect of matters of international, national or local significance • scientific research into, and the encouragement of, new and improved forms of entertainment and methods of presentation of entertainment. <p>DA 43-2-2004 – approved certain functional improvements to:</p> <ul style="list-style-type: none"> • meet the demands of the public and respond to contemporary requirements for the benefit of future generations • address the practical limitations of the 	<p>Functional improvements to:</p> <ul style="list-style-type: none"> • meet the demands of the public and respond to contemporary requirements • provide a new tour venue while respecting the inherent character of the Western Foyers and the Opera House as a whole • provide a new tour space on the ground level which will be fully accessible for all people, including those with disabilities • provide a new form of entertainment and method of presentation of entertainment to replicate the experience of the Concert Hall while respecting the heritage significance of the Opera house. <p>The TIDE will have a positive impact on the function and status of the Opera House, in line with the intent of the original DA and the SOHT Act.</p>	✓



	<p>building whilst respecting heritage values</p> <ul style="list-style-type: none"> link the western venues with the Box Office foyer and its venues improve access for people with disabilities. 		
Physical works	<p>Major physical upgrades to construct the:</p> <ul style="list-style-type: none"> Colonnade; unified Western Foyers including bars, kitchen, amenities, café, cloakroom; and Bennelong lift. 	<p>Minor physical works to create the TIDE, including</p> <ul style="list-style-type: none"> creation of a sliding door to access the space refurbishment of a BOH storage area. <p>The key physical components of the approved development will not be altered. The proposal respects and retains the original designs, the existing materiality of the FOH spaces and the CMP4.</p>	✓
Development size, scale and footprint	<p>The DA footprint includes the colonnade, Western Foyers and the theatres as shown in Figure 3. The footprint of the approved development 2221m2.</p>	<p>The proposal seeks only minor changes to the scale and scope of the approved plans. The proposed TIDE space is adjacent to the approved development.</p> <p>Figure 3 identifies the approved (2221m2) and proposed (115m2) DA footprints.</p> <p>The proposal increases the DA footprint by about 5% and does not alter the built form or appearance of the Western Foyers, Bennelong Passage and Colonnade.</p>	✓
Uses	<p>The objects and functions of the Trust (and by inference, uses) are outlined in clause 4 of the SOHT Act.</p> <p>The Western Foyer spaces and colonnade have a number of existing 'uses' including as a catering service, food and beverage outlet, tourist and cultural precinct utilised for tours, children's activities (school holidays), pop-up activations such as book stores during events, occasional exhibitions, promotions and cocktail events.</p>	<p>The proposal will provide another space for tours, therefore meeting the demands and expectations of the public during Concert Hall closure and beyond.</p> <p>The change of use (from BOH to FOH use) is a positive change as it will enable the public to engage with what is essentially a private space, consistent with the main functions of the Opera House.</p> <p>The modified development retains the same mix of uses as the approved development.</p> <p>The environmental assessment of the proposal concludes the proposal will not result in any adverse impacts to the heritage significance of the Opera House or surrounding developments or land uses.</p>	✓
Hours of Operation	<p>The current liquor licence for the bars and café permits the following trading hours:</p> <ul style="list-style-type: none"> Mon-Sat 10am-1.30am Sunday 10am – 12am 	<p>Tours are permitted to leave the Welcome Centre (tours starting point) between 7am and 11pm. The Welcome Centre operating hours are also proposed for the TIDE.</p>	✓



		The proposal does not alter existing hours of operation for tours, bars or restaurants.	
Operation and management	Tours are currently managed by the Opera House Visitor Experience team	No change	✓
Heritage Impacts	The approved development was considered 'major works' prepared in close consultation with the original architect, Jorn Utzon. The HIS for the proposal noted the internal works abandoned Peter Hall's interior regime for the foyer(s) but this was justified on the scale of the works and their compliance with Utzon's design scheme and the then Conservation Management Plan and its policies.	No significant fabric or elements are proposed to be removed or altered. Conversely, there will be intended improvements to form and fabric, i.e. improved finishes and functionality of the space and a contribution to the outstanding aesthetic values of the Opera House as a whole. The proposed changes have been closely considered against the UDP and CMP4, to the satisfaction of the CC, EAP and the Heritage Consultant. The HIS concludes that the proposed TIDE space respects and maintains the recognisable identity set by Peter Hall for FOH spaces and the Utzon design palette is respected in the minor changes proposed to Bennelong Passage. Overall, the proposal is considered to have a positive impact on the significant values of the Opera House.	✓

11 Evaluation

Decisions made under the EP&A Act must have regard to the relevant matters for consideration of the EP&A Act as set out in Section 4.15.

Aside from the provisions of any relevant EPI (see section 11.3), the applicable matters for consideration are (b) the likely impacts of the development, including environmental impacts, (c) the suitability of the site for the development and (e) the public interest.

This Modification Report considers the likely environmental impacts of the development and any steps that would be taken to protect the environment in **Section 12**. The suitability of the site and the public interest are considered below.

11.1 The suitability of the site for the development

The proposed works, being internal modifications and upgrades, will have no adverse impact on the built form of the Opera House. The proposal is a minor amendment to the already approved structure (when considering the total development structure) and will not be visible from any external public vantage points.

The project is consistent with local strategic planning objectives and local and state planning objectives. The site is suitable for the proposed tour space, given 'entertainment facilities' are permissible with consent in the B8 zone and fit within the zone objectives.

Consequently, the site is suitable for the proposal.

11.2 The public interest

Under Section 4.15(1)(e) of the EP&A Act, the applicant is required to consider whether the proposal is within 'the public interest'.



This is a unique proposal that aims to diversify and contemporise the tour offerings at the Opera House, ensuring it remains an important visitor destination. The tour enhancement will provide an important mitigation to the closure of the Concert Hall in the short term – maintaining important revenue for the Opera House and preserving the ability of the Opera House to function as a performing arts centre and tourist attraction.

In the longer term, the proposal also provides an opportunity for the Opera House to engage with new audiences and provide enhanced learning opportunities without adversely affecting the heritage significance of the building or surrounding environment.

The history and creation of the Opera House as a masterpiece by Utzon continues to inspire and encourage the pursuit of excellence and innovation. The proposal is unique and innovative and worthy of the Opera House. This application has been prepared with respect to the UDP and will not alter the original character of the building.

As the works will be primarily located within an existing BOH area, there will be minimal disruption to the public within publically accessible areas. During the construction period, the delivery of materials will be primarily via the underground loading dock.

Accordingly, the proposal is suitable for the site and in the public interest.

11.3 Environmental Planning Instruments

In determining a modification application, a consent authority is to take into consideration the Environmental Planning Instruments (EPIs) of relevance to the original development application [refer s 4.15(1)(a)(i)] of the EP&A Act.

The original development application and planning report assessed the development's compliance with the following environmental planning instruments:

- *State Environmental Planning Policy No 56 – Sydney Harbour Foreshores and Tributaries 1998* (repealed)
- *State Regional Environmental Plan No 23 – Sydney and Middle Harbours 1990* (repealed)
- *Central Sydney Local Environmental Plan 1996* (repealed)
- *Draft Central Sydney Local Environmental Plan 2002* (repealed)
- *Central Sydney Heritage Local Environmental Plan 2000* (repealed)
- *Central Sydney Development Control Plan 1996* (repealed)

As all the above instruments have now been repealed, an evaluation of the proposal against the current and relevant planning instruments has been undertaken.

11.3.1 State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP)

Clause 1 of Schedule 2 identifies all development on land identified as being within the Opera House site is State Significant Development (SSD) for the purposes of the EP&A Act. Accordingly, the Minister (or delegate) is the consent authority with respect to any development of the site.

It is noted that the SRD SEPP excludes that application of DCPs to SSD, meaning *Sydney Development Control Plan 2012* does not apply to this application.

11.3.2 State Environmental Planning Policy (State Significant Precincts) 2005 (SSP SEPP)

Part 1 of Schedule 3 of the *State Environmental Planning Policy (State Significant Precincts) 2005* (Precincts SEPP) makes provision for exempt development controls at the Opera House. While the SSP SEPP does make provision for minor alterations and



additions, no reference is made in that context to a change in use associated with such works. Accordingly, development consent is required for the proposal.

11.3.3 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SREP)

The SREP contains certain objectives and planning principles for development in the Sydney Harbour Catchment that must be addressed. The Opera House is identified as a Heritage Item under the SREP. The relevant Matters for Consideration in the SREP are clauses 13-15, 22, 25, 26, 53 and 58. A consideration of the project against these provisions is provided in **Table 5** below.

Table 5: consideration of the relevant SREP objectives

Provision/ Objective	Consistency
Clause 13 – planning principles for Sydney Harbour Catchment. These principles generally relate to protection of the natural environmental qualities and scenic character of the harbour and its catchment.	The proposal will have no impact on the natural environmental qualities and scenic character of the harbour and its catchment as the minor works are located fully inside the existing structure of the Opera House. There will be no impact to views to or from the Opera House or on the scenic character of the harbour.
Clause 14 – planning principles for Foreshores and Waterways Area. These principles generally relate to protection of the natural environment & scenic character of the harbour and its catchment, the enhancement of public access to & along the foreshore and opportunities for maritime related uses of the foreshore.	As above, there will be no impacts on the harbour or public access to the Broadwalks or shoreline as a result of the proposal. Construction will be managed to avoid impacts on the public, and due to the location of the works they will have no impact on public access to the foreshore.
Clause 15 – planning principles for heritage conservation.	As the proposal is located inside the Opera House, it will not impact on the setting and the open relationship of SOH within its setting on Sydney Harbour. The Heritage Impact Statement (Appendix 3) concluded the proposal will not impact on any significant heritage fabric or the distinctive form and silhouette of SOH.
Clause 21 – matters for consideration relating to biodiversity, ecology and environmental protection.	The development site does not contain any threatened or vulnerable species, populations, communities or significant habitats, therefore clause 21 is not applicable.
Clause 22 – matters for consideration relating to public access and use of foreshores and waterways.	The works are fully contained within the Opera House, therefore will not affect public access to the harbour from the foreshore, nor will the TIDE restrict the use of the foreshore area.
Clause 25 – matters for consideration relating to foreshore and waterways scenic quality.	As the works are fully contained within the Opera House, scenic quality and views will not be affected by the proposal.
Clause 26 – matters for consideration relating to maintenance, protection and enhancement of views.	As per clause 25.
Part 5 Heritage Provisions The SREP notes SOH is identified as a World Heritage Item, and a 2.5km World Heritage Area Buffer Zone is mapped around the SOH to protect its world heritage values. Clause 53(2) – objectives of the heritage provisions relating to SOH. Clause 58B – matters to consider (World Heritage values) for development within the SOH buffer zone.	The HIS accompanying this application (Appendix 3) addresses the proposed development against the World, National and State heritage values of the Opera House and concludes that the TIDE will retain and potentially enhance these values. In addition, the HIS concludes the TIDE is compliant with CMP4, the UDP and will therefore assist the Opera House in retaining its status as Australia's pre-eminent performing arts centre.



11.3.4 Sydney Local Environmental Plan 2012 (SLEP) and Sydney Development Control Plan 2012

The proposal is located on land zoned B8 Metropolitan Centre under the SLEP. Entertainment facilities are permitted with consent in this zone. DCPs do not apply to State significant development (refer to Clause 11 of the SRD SEPP).

Clause 6.21 of SLEP relates to design excellence. The proposal is consistent with the SLEP in that it has been prepared in accordance with CMP4 with the support of the Opera House DAP. CMP4 includes policies to ensure all installations, infrastructure or objects, for any event, activity or use, must be of exceptionally high quality and respect the unique setting, character, quality and significance of Opera House, and not detract or compete with it (Policy 6.2). The full architectural set for the proposal is at **Appendix 2**.

12 Environmental Assessment

The potential environmental impacts of the proposed modification are considered below.

12.1 Heritage

The HIS, prepared by Design 5 (and contained in **Appendix 3**), has assessed the proposal (including works and uses) against the site's heritage values, CMP4, UDP and the Renewal Interpretation Strategy 2017 (RIS).

In addition, the HIS has considered whether the proposal complies with the Opera House's site-specific exemptions and the standard exemptions under the *Heritage Act 1977*.

Importantly, the HIS notes the physical changes to the building associated with the TIDE are minimal and generally do not affect significant fabric or equipment. The TIDE space is essentially a 'box' that sits inside the existing building structure and is removable and reversible.

However, there will be *"a small but acceptable amount of demolition to a small length of the 1968 concrete podium structure to create the new sliding door access of Bennelong Passage"*. The HIS considers this small impact acceptable, given the granite panels adjacent to the opening will remain unaffected, as will the Bennelong Passage and Western Foyers more generally.

12.1.1 Assessment of impacts on World and National heritage values

The HIS concludes that the proposed works will have no adverse impact on either the World or National heritage values of the Opera House.

In fact, the HIS concludes the TIDE project will have a positive impact on the Outstanding Universal Values that enshrines the Opera House on the World Heritage List.

The proposal is therefore not considered a controlled action under the EPBC Act and accordingly no referral to the Commonwealth Minister for the Environment has been made.

12.1.2 Assessment of impacts on State heritage values

The HIS concludes the proposal will have a positive impact on the State heritage values of the Opera House, however all development applications at the Opera House require approval from the Heritage Council under the Heritage Act. For minor works, an exemption under s57(2) can be sought instead of a section 60 application.



The HIS recommends that the proposal can be undertaken under certain Heritage Act exemptions, as outlined in the Table below:

Relevant exemption	Works or use
Site specific exemption no. 8 Standard exemption no 7	Initial demolition works to the mezzanine level of the store rooms, removal of the cool room and dividing walls to enable access to the TIDE space. Upgrades to security and fire safety.
Standard exemption 7	Creation of the new door from Bennelong Passage
Standard exemption 9	Change in use from BOH space to FOH space
Standard exemption 7	Fit out of the TIDE space

While the HIS notes the above exemptions are relevant to the proposal, the NSW Heritage Division will need to confirm the appropriate exemptions.

SOHT notes that Standard Exemption 8 could also apply to the initial demolition works and services upgrades (non-significant fabric).

12.1.3 Assessment of compliance with CMP4

The HIS concludes that the proposal complies with the policies and guidelines set out in CMP4.

12.1.4 Assessment of compliance with UDP

The HIS notes that both Utzon and Hall supported modifications or changes to the Opera House to address “*functional demands if done with caution and careful consideration as well as respect for the character created by the original designers*”.

Three alternatives were considered by the consultant team for the finish of the TIDE space, being:

- retain its BOH identity;
- adopt the Utzon design language of the Western Foyer; or
- adopt the distinct FOH finishes specified by Peter Hall.

Option 3 was considered the most appropriate finish for the TIDE space, as the TIDE is intended to relate to the major auditoria and their foyers.

Only the new sliding door to the TIDE space discretely remains consistent with the Utzon design language of the Western Foyers. The design note prepared by Scott Carver Architects notes the design maintains uniformity with the main building and the UDP.

The HIS notes the “*projection content for the TIDE project will strengthen the visitor’s understanding of the building, its setting, materials and the inspiration behind the design by Utzon and Hall through interpretation with the help of visual and audio stimuli in a dedicated and purpose-built facility*”.

Further, the materials and finishes proposed for the TIDE “*respect and maintain the high quality and standards set by Utzon and Hall’s original work. The proposed palette of materials and details, i.e. the Brush Box panelling and flooring, bronze detailing and indirect lighting in the TIDE space (as a new Front-of-House space) visually link the space to the established Opera House identity*”.

12.1.5 HIS Recommendations

While the HIS concludes the TIDE complies with the policies and guidelines set out in CMP4 and will have a positive impact on the significant values of the Opera House, it makes a number of recommendations to ensure the use of the TIDE space does not threaten the Opera House’s status as a cultural icon and internationally recognised



performing arts venue, accessible to all. SOHT will ensure these recommendations are implemented, and therefore commits to:

- ensuring Bennelong Passage is not blocked by TIDE tour groups, and clear access along this passage is maintained. This will be achieved through careful planning around the timing and departure of tour groups. If absolutely necessary due to unforeseen delays, groups could be directed to wait under the Covered Concourse to ensure the primary access to the Box Office (via Bennelong lift) for people with mobility issues is retained;
- restricting access to the existing Bennelong Passage service door to ensure that Western Foyers food and beverage staff do not obstruct Bennelong Passage during TIDE business hours;
- not allowing the TIDE space to be hired for private parties or functions, unless the function is associated with performances or events in the Opera House performance venues; and
- ensuring any furniture, signage and final finishes chosen for the TIDE space comply with the recommendations of the HIS and will be selected in consultation with the DAP. As noted above, the DAP has already been involved in the development of the design and the selection of finishes, and will continue to be consulted in the event of any further design developments.

12.2 Building Code of Australia compliance

Group DLA has assessed the proposal against the major requirements of the Building Code of Australia (BCA), refer to **Appendix 6**. This BCA report has confirmed the proposal can comply with the relevant fire safety and accessibility codes, subject to detailed design and the assessment of certain technical BCA matters at the Crown Building Works Certificate stage.

12.2.1 Fire safety

The existing storage rooms are being converted to a public space that no longer requires fire separation. No issues have been raised with regards to fire compartmentalisation, provision for escape, fire resistance and stability that cannot be resolved during detailed design.

The BCA compliance report (**Appendix 6**) found no issues with existing fire-fighting equipment or smoke hazard management.

12.2.2 Structural engineering

As the proposed works will/will not affect load bearing walls, no strengthening works to the existing building are required. A structural engineer will confirm compliance with the BCA prior to issuance of the Crown Building Works Certificate.

12.2.3 Sanitary facilities

As the TIDE will not increase the number of tour patrons or occupants to the Western Foyer area, no additional sanitary facilities are required.

12.2.4 Energy efficiency

The new works will be required to comply with Section J of the BCA 2019 where feasible (otherwise BCA 2016). No action is required with regards to energy efficiency. However, to achieve compliance with Section J, the following will need to be undertaken:

- Part J3 – Building Fabric. R1.8 insulation may be required to the new internal walls. This will be confirmed at the detailed design stage.
- Part J3 – Building Sealing. Acoustic and fire rating requirements for the new sliding door may achieve inherent compliance. This will be confirmed at the detailed design stage.



- Part J5 – Air Conditioning and Ventilation Systems. A certificate from a mechanical consultant will be required.
- Part J6 – Artificial Lighting and Power. A certificate from an electrical consultant will be required.

12.3 Access for people with disabilities

Group DLA has assessed the TIDE proposal against the relevant disability provisions of the *Disability (Access to Premises – Building) Standards 2010* and the BCA (the report is located at **Appendix 4**).

The area assessed by Group DLA is limited to a small part of Bennelong Passage where the new sliding door entrance to the TIDE will be located. This area already contains a step-free accessible path of travel, and therefore no upgrades to the corridor are required. The new sliding door is of adequate width (850mm) to accommodate a wheelchair, and there will be adequate circulation area inside the TIDE space. The timber-board finish of the flooring will be easily traversable by people with a disability.

Appropriate hearing augmentation and signage will be provided where possible, within the heritage constraints of the building. The report notes that any seating and/or furniture to be used in the TIDE should be made for all potential users (including seats with backs and arms) to ensure all users are safe and comfortable, particularly given the experience may require users to look ahead and above simultaneously.

The report concludes the minor works related to the TIDE are capable of compliance with the relevant accessibility legislation and compliance will be readily achieved with the Deem to Satisfy (DtS) access provisions and the Performance Requirements of the BCA.

12.4 Acoustics

12.4.1 Operational noise

The TIDE proposal includes an audio experience that will be played as part of the immersive experience. The auditory component will use a loudspeaker system.

Immediately above the TIDE space is the Concert Hall Foyer, with the Playhouse and Ballet Rehearsal Room also in close proximity (but not with shared walls). Sound insulating ceilings and partitions will be installed to preserve the amenity of these surrounding spaces. The TIDE space and nearby facilities are depicted in **Figure 9**.

As the proposal is fully located inside the Opera House, it will not generate any significant or new offsite noise impacts and is expected to comply with the relevant noise guidelines and policies.

An initial acoustic assessment (**Appendix 5**) prepared by Arup confirms the TIDE proposal is unlikely to create acoustic 'bleed' into nearby venues, specifically the Playhouse. This will be confirmed at the detailed design stage.

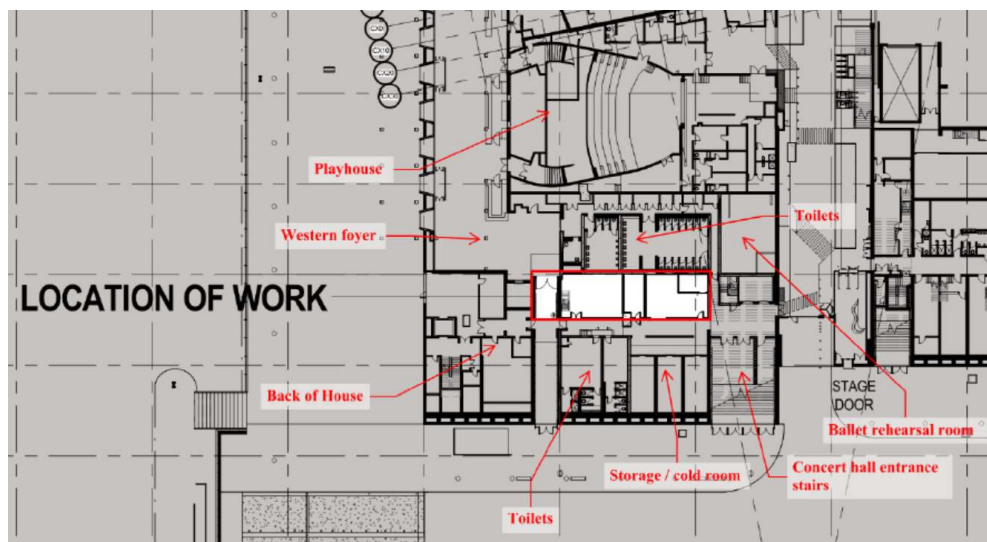


Figure 9: key spaces surrounding the TIDE

12.4.2 Construction noise

The proposal physical works will be completed in about 8 weeks. They will be serviced by the existing underground loading dock. As most of the works will be confined to a small area not accessible the public, there will be negligible public impacts (on-site and off-site).

The only public areas affected by the works are the door access works within the Bennelong Passage. These works will be enclosed by construction hoardings and sealed off from public access.

As with all Opera House capital works projects, the works will be completed in the most efficient, least disruptive way, being as considerate as possible of everyone affected and drawing on the lessons of completed projects.

It is likely that some construction works will need to occur outside of standard construction hours, but only where performances in the nearby venues are not affected.

Existing condition 11 of DA 43-2-2004 permits 24/7 internal construction works, providing the works do not unreasonably impact on Opera House patrons or surrounding residents. It is noted this is limited to an 18-month period by condition 12. These conditions are considered applicable to the current proposal.



13 Conclusion

The unique form of interpretation and immersive experience proposed as part of the TIDE will help ensure the Opera House retains its iconic status as Australia's pre-eminent performing arts centre during Renewal and into the future. This HIS prepared for the proposal concurs that the proposal respects the World, National and State Heritage values of the Opera House.

SOHT has undertaken a full and comprehensive assessment of the proposal, with thorough investigation of all impacts in accordance with the requirements of the EP&A Act. This report will assist DPIE to fulfil its evaluation obligations as the consent authority under Section 4.15 of the EP&A Act.

The proposal remains consistent with the objectives and conclusions of the original proposal and can be considered an extension of the same development as approved under DA 43-2-2004. The TIDE proposal:

- results in only minor changes to the scope and scale of the approved plans;
- supports the Opera House as a performing arts venue in meeting the demands of the public throughout the period of Concert Hall closure and beyond;
- responds to contemporary requirements and provides an enhanced tour option that will be fully accessible for all patrons, including those in wheelchairs.
- will not give rise to any significant environmental impacts, including heritage impacts; and
- is suitable for the site and in the public interest.

This proposal has been considered against relevant planning objectives and no constraints or issues have been identified. Accordingly, the SOHT requests approval of the TIDE proposal.