

ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

DETERMINATION OF DEVELOPMENT APPLICATION NO. 445-10-2003

(FILE NO. S03/03035 PT 1)

**USE OF SOUTHERN FORECOURT AND MONUMENTAL STEPS OF THE
SYDNEY OPERA HOUSE FOR TEMPORARY PERFORMING ARTS /
COMMUNITY EVENTS AND FUNCTIONS**

I, the Minister for Infrastructure and Planning, pursuant to Section 80 (1)(a) of the *Environmental Planning & Assessment Act, 1979*, and clause 10 of State Environmental Planning Policy No 56 – Sydney Harbour Foreshores and Tributaries, determine the development application referred to in the attached Schedule 1, by granting consent to the application subject to the conditions of consent in the attached Schedule 2.

The reasons for the imposition of conditions are:

- (1) To maintain public access;
- (2) To protect the environment and provide reasonable amenity to the residents;
- (3) To protect the heritage significance of the Sydney Opera House and its setting.

Craig Knowles MP
Minister for Infrastructure and Planning
Minister for Natural Resources

Sydney,

2004

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Diane Beamer MP
Minister for Juvenile Justice
Minister for Western Sydney
Minister Assisting the Minister for Infrastructure and Planning
(Planning Administration)

Sydney,

2004

SCHEDULE 1

PART A—TABLE

Application made by:	Sydney Opera House Trust Bennelong Point, Sydney NSW 2000
Application made to:	Minister for Infrastructure and Planning
Development Application:	No. 445-10-2003
On land comprising:	Sydney Opera House Southern Forecourt, Monumental Steps and Broadwalk Areas.
For the carrying out of:	Development described in Condition 1, Schedule 2
Estimated Cost of Works	NA
Type of development:	State Significant Development
S.119 Public inquiry held:	No
BCA building class:	9B
Approval Body / Bodies:	Not Integrated
Determination made on:	
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 letter accompanying the Determination.
Date consent is liable to lapse	This consent will lapse 5 years from the date of commencement of consent, unless: ▪ a shorter period of time is specified by the Regulations or a condition in Schedule 2, or ▪ the development has physically commenced.

PART B—NOTES RELATING TO THE DETERMINATION OF DA NO. 445-10-2003**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

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

In this consent,

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.

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

Approval Body has the same meaning as within Division 5 of Part 4 of the Act.

BCA means the Building Code of Australia.

Council means City of Sydney Council.

DA No. 445-10-2003 means the development application and supporting documentation submitted by the applicant on 17 October 2003 and as amended.

DEC means the Department of Environment and Conservation

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

Director means the Director of the Urban Assessments (or its successors) within the Department.

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

Event means an event / performance as defined under Type C – High impact performing arts/community event within the Statement of Environmental Effects.

Function means an MICE/Corporate Function as defined under Type C – High Impact functions, within the Statement of Environmental Effects.

L_{Amax} means the A – weighted maximum Root Mean Square (RMS) sound pressure level measured at any time during an event or function;

L_{Cmax} means the C – weighted maximum Root Mean Square (RMS) sound pressure level measured at any time during an event or function

Minister means the Minister for Infrastructure and Planning.

Sensitive Receiver means places such as residences, nursing homes, hospitals and schools

SCHEDULE 2

CONDITIONS OF CONSENT

DEVELOPMENT APPLICATION NO. 445-10-2003

GENERAL

1. Development consent is granted only to carrying out the development described in detail below:
 - (1) Use of Sydney Opera House Southern Forecourt and Monumental Steps for temporary performing arts / community events and functions.
2. The development shall be generally in accordance with development application number No.445-10-2003 submitted by the applicant on 17 October 2003, and in accordance with the supporting documentation submitted with that application, including, but not limited to, the following:
 - (i) Statement of Environmental Effects entitled Sydney Opera House – Forecourt and Site DA prepared by City Plan Services, dated October 2003, including revised Table 1 (Site Event Schedule) amended 21 May 2004.
3. The development consent hereby approved shall lapse three (3) years after the determination date in Schedule 1 of this consent.

PRESCRIBED CONDITIONS

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

MAXIMUM NUMBER OF EVENTS AND FUNCTIONS

5. The maximum number of events and functions shall be as follows:

	MAXIMUM NUMBER OF DAYS PER YEAR (Inclusive of set up and clean up)
Performing Arts / Community Events	4 events (maximum of 7 days per event, and 24 days per annum)
Corporate Functions	4 functions (maximum of 7 days per function, and 24 days per annum)

MAXIMUM CAPACITY OF EVENTS AND FUNCTIONS

6. (a) Performing Arts / Community events shall not accommodate more than a maximum of 6,000 people per event.
- (b) Corporate Functions shall not accommodate more than a maximum of 2,000 people per function.

HOURS OF OPERATION FOR EVENTS AND FUNCTIONS

7. (a) The hours of operation for performing arts / community events shall be limited as follows:

COMMENCEMENT TIME	CESSATION TIME
8am	11pm

- (b) The hours of operation for corporate functions shall be limited as follows:

COMMENCEMENT TIME	CESSATION TIME
8am	12 midnight

NOTE: Any amplification during the performing arts / community impact events and corporate functions must comply with the relevant noise limits as set out in Condition Nos. 42 – 44 (inclusive).

OUTDOOR LIGHTING

8. Outdoor lighting shall comply with, where relevant, AS/NZ1158.3: 1999 *Pedestrian Area (Category P) Lighting* and AS4282: 1997 *Control of the Obtrusive Effects of Outdoor Lighting*.
9. Lighting associated with events and functions shall not have an adverse impact on the area surrounding the site.

PUBLIC ACCESS

10. Public access shall be maintained at all times to the lower concourse via the southern escalators, southern stairs and ramp.
11. Public access shall be maintained at all times around the Opera House along the western, northern and eastern broadwalks to the Botanic Gardens.
12. Unobstructed access between the bottom of the Tarpeian Steps and Royal Botanic Gardens Opera House Gate along the forecourt shall be provided except during events.

DESIGN OF FOOD PREMISES

13. All facilities associated with food catering shall be in accordance with the National Code for the Construction and fit out of food premises.

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14. All forms of food functions or events must be notified to NSW Health either manually or on line at www.foodnotify.nsw.gov.au.

WASTE MANAGEMENT

15. The applicant must prepare and implement a Waste Management Plan for events and functions. The plan shall follow the seven steps to a waste wise function as outlined in the publication, Waste Boards NSW (1999) 'The Seven Steps to a Waste Wise Function'.

PARKING AND TRANSPORT

16. The applicant shall ensure that patrons are encouraged to use public transport when attending any events or functions.

NOISE AND RELATED CONDITIONS

17. The applicant or the operator of the event or function shall ensure that the behaviour of patrons entering and leaving the premises does not detrimentally affect the amenity of the surrounding neighbourhoods. In this regard, the management shall be responsible for the control of noise, loitering and litter generated by patrons of the premises and shall ensure that people leave the premises and area in an orderly manner.

The applicant to retain ultimate control

18. The applicant must at all times retain ultimate control of the noise level caused by any sound amplification equipment operated outdoors (including under or within a tent, marquee or similar structure).
19. During all events and functions, the applicant must ensure that an employee or agent of the applicant is present, and is able to exercise ultimate control of the noise levels from the sound amplification equipment operated during the event or function.
20. During all events and functions, the applicant must ensure that the employee or agent nominated in Condition 19 of this consent can be contacted in real time (ie mobile phone or two way radio) by the person(s) operating the telephone hotline for complaints in Condition 40.

Sound Amplification Equipment

21. Sound amplification equipment used during events and functions shall be selected, installed and maintained to minimise the emission of noise to areas outside of the Sydney Opera House forecourt area.
22. Following installation and orientation of sound amplification equipment, an accredited acoustic consultant shall certify to the applicant that the installation and orientation has been undertaken using all practical (reasonable and feasible) measures to limit the emission of noise to areas outside of the event or function area.
23. Practical measures in Condition 22 shall include but not be necessarily limited to;
- a) Use of diffuse speaker array systems to limit main speaker noise output (ie diffuse speaker coverage patterns).
 - b) Optimisation of the direction and array of speaker to limit noise propagation to sensitive receivers.
 - c) Treatments to the rear of the stage to limit escape of fold back speaker noise.

Monitoring Points and Acoustical Consultant

24. At least once each calendar year for the duration of the consent, noise levels must be continuously monitored in real time, by an accredited consultant, throughout an entire corporate function;
25. For all performing arts/community events, noise levels must be continuously monitored in real time, by an accredited consultant, throughout an entire performing arts / community event.
26. The noise levels in Condition Nos 24 and 25 of this consent must be monitored at the specified locations set out in Condition No 32.
27. Events and functions monitored in Condition Nos 24 and 25 must be representative of the various events and functions held on the site.
28. In addition to the noise monitoring requirements set out in Condition Nos 24 and 25, the Director, Urban Assessments, may at any time require noise monitoring to be carried out should complaints be received in relation to noise.
29. During the entire event or function, the applicant must ensure that a Trust employee or agent is present at the sound-mixing desk for the event or function and is able to exercise ultimate control of the noise levels from the sound amplification equipment during the event or function; and
30. The Trust must ensure that, during the entire event or function, the employee or agent nominated in Condition 29 can be contacted in real time (i.e. mobile phone or two way radio) by all acoustic consultants monitoring noise from the event or function.
31. When the noise level reaches 5dB(A) below the relevant noise limit(s) set in the consent at any of the monitoring locations the acoustic consultant is to initiate immediate contact with the applicant employee or agent nominated in Condition 29. The consultant shall advise the Trust employee or agent that the event or function noise is approaching the noise level limit to allow regulation of the noise output to comply with the noise level limits.

Noise Monitoring Locations

32. Where the consent requires noise measurements, the monitoring must be undertaken at the following locations:
 - a) At Beulah Street Wharf (off Waruda Street), Kirribilli;
 - b) At a point within one (1) metre of the residential boundary nearest to the Sydney Opera House at Bennelong Apartments, East Circular Quay.
 - c) At other locations nominated from time to time which are the subject of complaint and where in the opinion of the DIPNR or the Trust may be experiencing noise levels that exceed the relevant noise level limits in the consent.

Noise Monitoring Methods

33. Where the consent requires noise measurements, the noise measurements must be taken using a Type 1 Sound Level Meter set to “fast” time response, ‘A’ and/or ‘C’ weighting network as specified; and
34. The L_{Amax} and L_{Cmax} must be measured:
 - a) in the absence of any influential sound, that is audibly distinguishable and extraneous to the sound from the amplification equipment associated with the event or function; and

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- b) with the sound level meter microphone placed between 1.5 and 1.6 metres above the ground.

Complaint Management

35. A legible record of all complaints made to the applicant, or any employee or agent of the applicant, must be kept in relation to noise arising from any activity to which the consent applies.
36. The record of complaint must be kept for at least two (2) years after the complaint is made;
37. The applicant must consider any relevant complaints when planning and managing events and functions.
38. The record must include details of the following:
- a) The date and time of the complaint;
 - b) The method by which the complaint was made;
 - c) Any personal details of the complainant which were provided by the complainant or, if no such details were provided, a note to that effect;
 - d) The nature of the complaint;
 - e) The action taken by the applicant in relation to the complaint, including any follow-up contact with the complainant; and
 - f) If no action was taken by the applicant, the reasons why no action was taken.

Notification of Details of Events and Functions

39. (a) The applicant is to maintain a record of all event and function details, and must include these details within the monitoring report as set out in Condition No 57 of this consent.
- (b) At least seven (7) days prior to the commencement date of all performing arts / community events, the applicant must provide event details, including the time and dates, to the relevant person within the following authorities:
- DIPNR
 - City of Sydney Council
 - North Sydney Council
 - Department of Environment and Conservation
 - Police
- (c) The applicant must provide the name and contact details of a general liaison person for the purposes of communication in connection with events or functions, including notification of any changes to these details, to the relevant person within the following authorities:
- DIPNR
 - City of Sydney Council
 - North Sydney Council
 - Department of Environment and Conservation
 - Police

Telephone Hotline for Complaints

40. During all events and functions, the applicant must operate a telephone complaints line for the purpose of receiving any complaints from members of the public in relation to noise generated from any event or function. An employee or agent of the applicant must be available to address any noise issues arising from the event or function and associated activities.

Notification of Event and Function Details to Sensitive Receivers

41. The applicant must submit details of their community consultation process within 2 months after the date of this consent, for the approval of the Senior Planner, Urban Assessments. The policy must provide reasonable notification to sensitive receivers of event and function details including, but not limited to, general information regarding event or function, relevant contact persons including contact phone numbers whereby enquiries and complaints can be directed.

Noise Limits for Sound Amplification for Performing Arts/Community Events

42. Between the hours of 10am – 11pm on any day, the noise levels must not exceed the lesser of the following limits at the noise monitoring locations specified in Condition No 32;
- a) Sunday to Thursday: The noise levels measured at the Bennelong Apartments must not exceed L_{Amax} 65 dB(A) and L_{Cmax} 85dB(C). The noise levels measured at any other location specified in this consent must not exceed L_{Amax} 60 dB(A) and L_{Cmax} 80 dB(C).
 - b) Friday to Saturday: The noise levels measured at the Bennelong Apartments must not exceed L_{Amax} 70 dB(A) and L_{Cmax} 90 dB(C). The noise levels measured at any other location specified in this consent must not exceed L_{Amax} 65 dB(A) and L_{Cmax} 85 dB(C).

Noise Limits for Sound Amplification for Corporate Functions

43. Between the hours of 10am – 11pm on Sunday to Thursday, and between the hours of 10am to 12midnight on Friday, Saturday and the eve of a public holiday, the noise levels must not exceed the lesser of the following limits at the noise monitoring locations specified in Condition No 32;
- a) Sunday to Thursday: The noise levels measured at the Bennelong Apartments must not exceed L_{Amax} 65 dB(A) and L_{Cmax} 85dB(C). The noise levels measured at any other location specified in this consent must not exceed L_{Amax} 60 dB(A) and L_{Cmax} 80 dB(C).
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44. For all other times not specified within Condition Nos 42 and 43, noise levels must not exceed background noise levels at the noise monitoring locations specified in Condition No 32.

Final Compliance Report to DIPNR

45. The applicant must provide a report in writing to DIPNR prepared by an accredited acoustical consultant by not later than twenty-eight (28) days after the completion of each events and function monitored under Condition Nos 24 – 31 (inclusive). The

report must contain the following:

- a) The date and times the monitoring occurred;
- b) The activities that were occurring on land administered by the applicant during the monitoring;
- c) The sound pressure levels recorded, including any exceedences of the noise level limits specified in Condition Nos 42 - 44 (inclusive) of this consent;
- d) If any exceedences did occur, what measures were implemented to ensure they did not re-occur during the event or function;
- e) The details of any complaints made during the event or function, including the details required by Condition Nos 35-38 (inclusive) of this consent; and
- f) Any other information relevant to the consideration of the noise impact on residents or other sensitive receivers.

TEMPORARY STRUCTURES

- 46. All temporary structures related to events and functions shall be confined to the event and performance areas on the southern forecourt and the Monumental Steps, as identified in Figure 5 of the Statement of Environmental Effects.
- 47. The visual impact of temporary structures on the vista to the Opera House shall be minimised. Back of house areas at the East Circular Quay/Macquarie Street entry shall be carefully designed. Fencing and gates shall be of high quality, and provide artwork and visual interest/public information in appropriate places. Neutral colours for furniture and fixtures shall be used.
- 48. An application under Section 68 of the Local Government Act 1993 must be obtained from the City of Sydney Council for the erection of the temporary structures. The application must be supported by a report detailing compliance with the provisions of the Building Code of Australia.
- 49. Structural certification from an appropriately qualified practicing structural engineer must be submitted to the City of Sydney with the application under Section 68 of the Local Government Act 1993 to certify the structural adequacy of the design of the temporary structures.
- 50. The early fire hazard properties of the structures must comply with Specification C1.10 of the Building Code of Australia.
- 51. A detailed egress analysis report must be prepared to justify that the proposed structures will not have an adverse impact on the means of egress from the permanent venues within the Opera House. This report must be submitted to the City of Sydney with the application under Section 68 of the Local Government Act 1993.
- 52. No structure shall be erected within 6 metres of any egress path from a fire isolated exit from the Opera House.
- 53. Sanitary facilities for the temporary structures must be provided in accordance with F2 of the Building Code of Australia.

PLACE OF PUBLIC ENTERTAINMENT

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54. The applicant shall obtain approval under Section 68 of the Local Government Act 1993 for a Place of Public Entertainment Licence prior to the use of the premises commencing.
 55. The applicant shall comply with the requirements in relation to Places of Public Entertainment.

COMPLAINTS

56. A person nominated by the event or function operator shall be available to address concerns and complaints by residents, designated authorities (ie Sydney City Council, the DEC, the Rocks Police, emergency services etc) and / or site management. The name and contact number of the nominated person shall be provided to DIPNR and Council, and shall be prominently and clearly displayed at site security gates or equivalent locations near each event or function.

MONITORING REPORT

57. The applicant shall submit a monitoring report to the Director, Urban Assessments once every calendar year, commencing one year from the date of the commencement of this consent. The report should include the program of events and functions and findings of these events and functions in relation to operation, pedestrian circulation, vehicular traffic, crowd control, security, noise and should include any complaints received by the applicant, Police, DEC or Council from the public. The report must also include details of the number and type of events and functions held each year.

COMPLIANCE

58. The applicant shall ensure that operators of events and functions are made aware of the conditions of this consent.
59. The use of the premises shall be operated at all times in accordance with the requirements of the above conditions of consent.

SAFETY AND SECURITY

60. The applicant shall ensure that all appropriate safety and security measures are implemented for the duration of all events and functions.

ADVISORY NOTES

AN1 Noise Generation

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