



CF/GK
16044
8 August 2016

Ms Carolyn McNally
Secretary
Department of Planning and Environment
22-33 Bridge Street
SYDNEY NSW 2000

Attention: Cameron Sargent

Dear Ms McNally,

**SECTION 75W MODIFICATION APPLICATION TO DA 445-10-2003
SYDNEY OPERA HOUSE – USE OF SOUTHERN FORECOURT AND MONUMENTAL STEPS
FOR PERFORMING ARTS / COMMUNITY EVENTS AND CORPORATE FUNCTIONS**

On behalf of the Sydney Opera House Trust, we write to the Minister (or his delegate) to modify DA 445-10-2003 under Section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act). Due to the operation of Clause 8J(8) of the *Environmental Planning and Assessment Regulation 2000* (EP&A Reg.) (which is continued in force by virtue of Clause 12 in Schedule 6A to the EP&A Act despite the repeal of Part 3A), Section 75W applies to the modification of the consent as it was granted by the Minister under Part 4 of the Act (as State Significant Development) before 1 August 2005.

The proposed modification relates to the use of the Southern Forecourt and Monumental Steps of the Sydney Opera House for temporary performing arts/community events and functions. The modification application seeks to:

- Re-allocate the number and duration of event days currently permitted, resulting in a reduction of the total number of combined performing arts, community and corporate events and event days currently permitted;
- Modify the consent to permit a one-off event in 2016 running for 25 days (including bump-in and bump out), being *Sydney Opera House – The Opera*, to commemorate the creation of the Sydney Opera House, which is proposed to be conducted on the Southern Forecourt and Monumental Steps of the Sydney Opera House;
- Update existing conditions of consent to reflect modified arrangements for conducting outdoor events on the Southern Forecourt and Monumental Steps generally, such as amending the hours of operation of events and rationalising and updating acoustic conditions to improve noise management and provide a more robust method for identifying and measuring event noise; and
- Deletion of several outdated conditions from the 2003 approval which are no longer relevant to outdoor performances conducted on the Southern Forecourt and Monumental Steps.

This application identifies the existing Development Consent (as modified), describes the proposed modifications and is accompanied by:

- Copy of the existing Development Consent DA 445-10-2003 (**Appendix A**) and consent as modified by MOD 6-1-2005;
- Layout plans of the performances of *Sydney Opera House: The Opera* (**Appendix B**);
- Acoustic Assessment (**Appendix C**);
 - Acoustic Impact Assessment for *Sydney Opera House – The Opera* (**Appendix D**);
 - Supporting Acoustic Statement (**Appendix E**);

- Lighting Assessment;
 - Letter from Sydney Opera House Trust (**Appendix F**);
 - Letter from Norman Disney and Young Lighting Design (**Appendix G**);
 - Lighting Impact Assessment (Opera Australia) (**Appendix H**);
 - Letter from Eleven Design (**Appendix I**);
- Heritage Impact Statement, forecourt events (**Appendix J**);
- Heritage Impact Statement, one-off Opera Australia Event (**Appendix K**);
- Transport Assessment (**Appendix L**);
- Traffic Management Plan (**Appendix M**).

This letter sets out the following to assist the Department in their consideration of this request:

- 1.0 Description of the site;
- 2.0 Background to the current approval (as modified);
- 3.0 Description of the proposed modifications;
- 4.0 Environmental assessment.

1.0 THE SITE

The Sydney Opera House is a State, National and World Heritage listed performing arts centre located on the Sydney Harbour foreshore at Bennelong Point. The Sydney Opera House site is shown in **Figure 1**. The site has the real property title reference of Lot 5 in Deposited Plan 775888 and Lot 4 in Deposited Plan 787933. Included in **Figure 2** is a map of the Monumental Steps and Southern Forecourt Area.

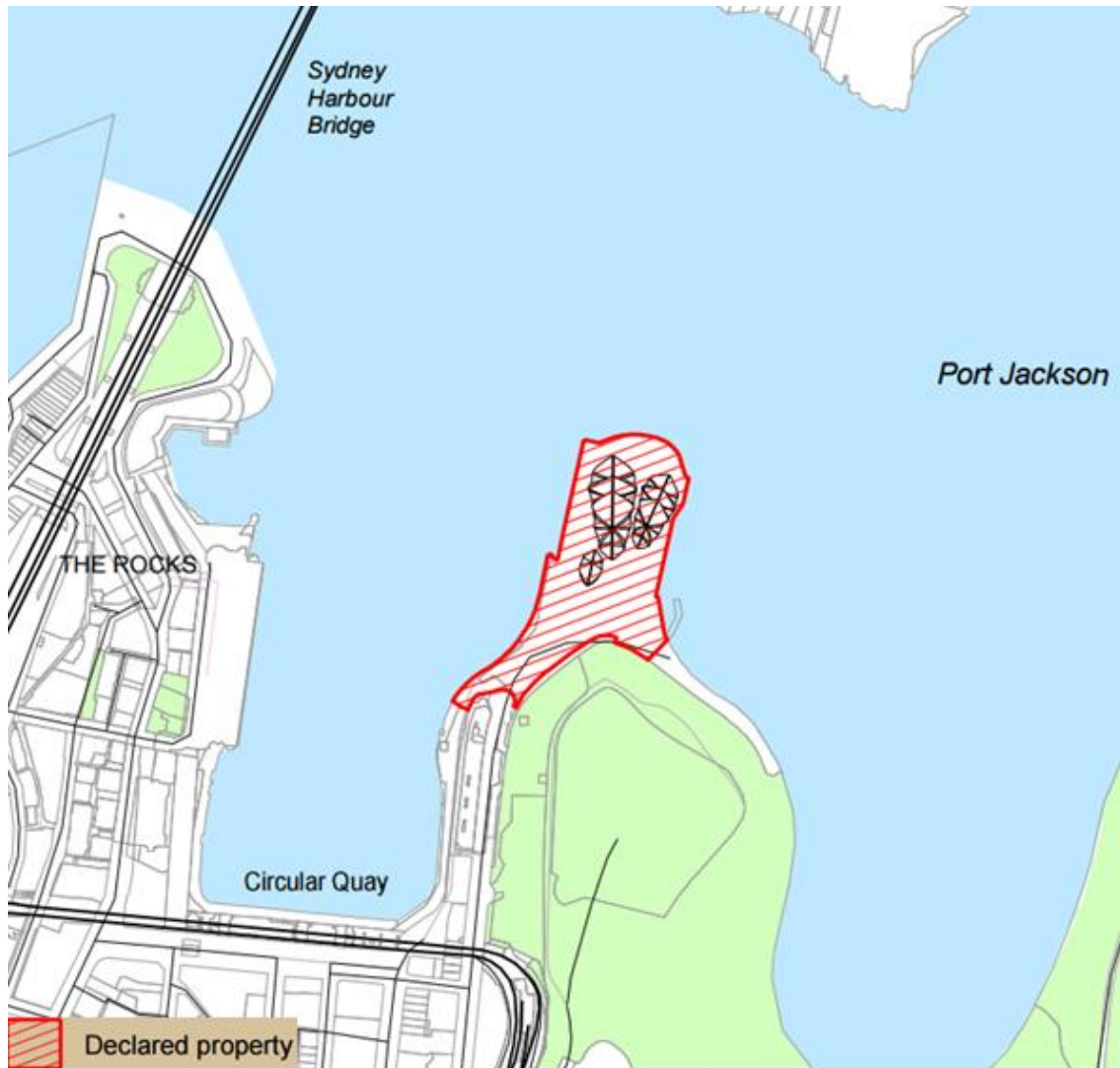


Figure 1 – Sydney Opera House World Heritage boundary
Source: JBA

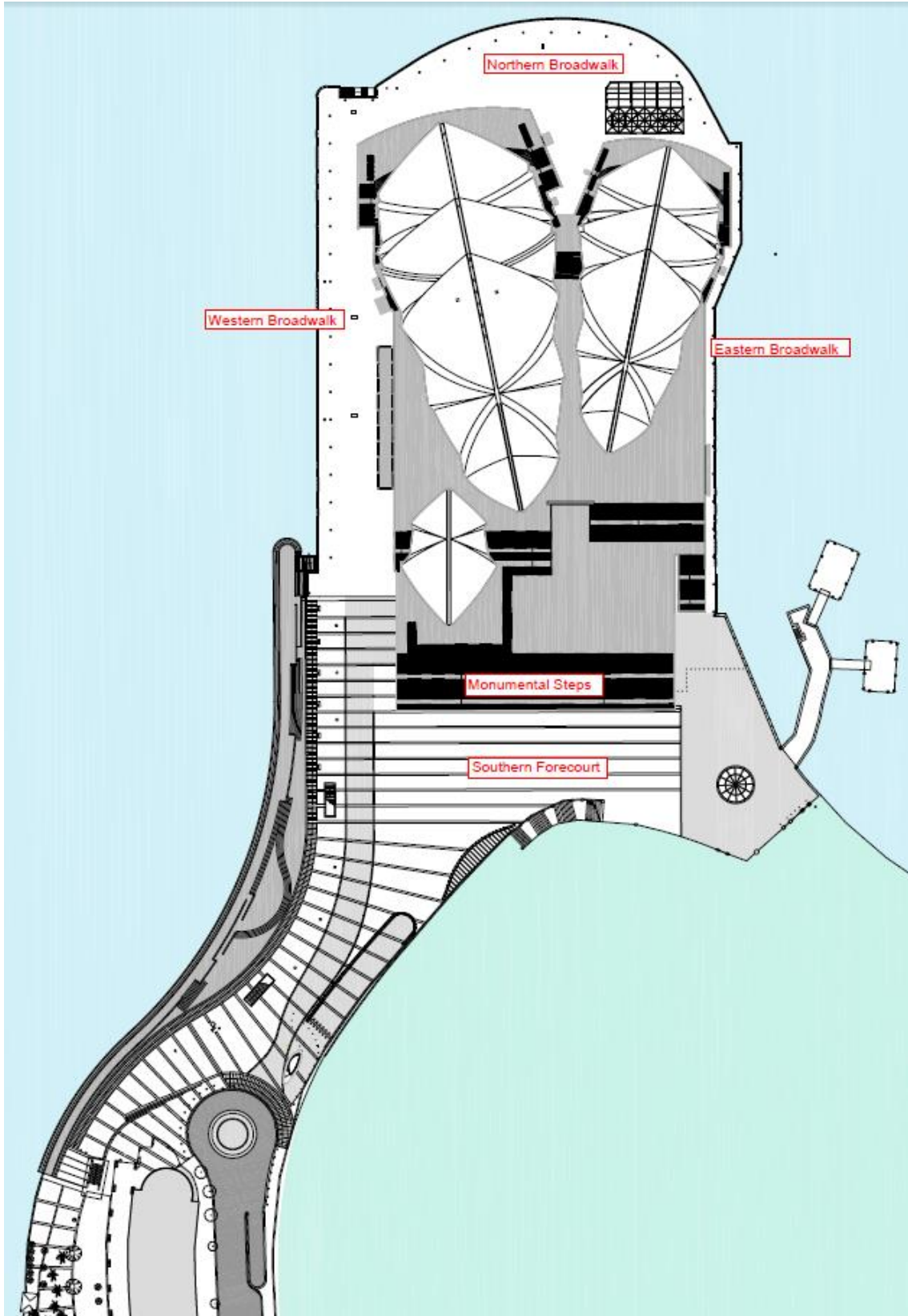


Figure 2 – Map of Monumental Steps and Southern Forecourt Area
Source: Sydney Opera House Trust

2.0 BACKGROUND

2.1 DA 445-10-2003

A number of temporary performing arts events, community events and corporate functions held on the Sydney Opera House Southern Forecourt and Monumental steps are currently permitted under the provisions of a State Significant Development Consent which was granted in June 2004 (DA 445-10-2003), pursuant to Section 80 (1)(a) of the EP&A Act by the then Minister for Infrastructure and Planning. A copy of this Development Consent is included in **Appendix A**.

The consent provides for a limited number of outdoor events with a prescribed number of event days per event. For completeness, it is noted that these event days are in addition to events already permitted as exempt development under *State Environmental Planning Policy (State Significant Precincts) 2005*.

The original consent allows for a maximum number of events and functions on the Opera House Southern Forecourt and Monumental Steps, as shown (being the 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 says per annum)

The number of events and days permitted has since been modified (see below). The consent provides conditions which control the maximum capacity of performing arts / community events, being no more than 6,000 people per event. The consent also stipulates hours of operation for events and functions, outdoor lighting standards, public access arrangements, design of food premises, waste management, parking and transport, noise and related conditions, temporary structures, complaints policies, compliance measures and monitoring and safety and security procedures.

MOD 6-1-2005 Additional performing arts/community events

MOD 6-1-2005 to DA 445-10-2003 sought to modify the existing consent to allow additional performing arts / community events, and was approved on 22 March 2005. The modification sought to omit the existing Condition 5, and instead insert provisions to allow for the following maximum number of events and functions (maximum days per year, inclusive of set up and clean up):

- **Performing Arts / Community Events:** 26 events (maximum of 11 days per event, and 99 days per annum)
- **Corporate Functions:** 6 functions (maximum of 7 days per function, and 28 days per annum).

MOD 6-1-2005 was approved and supersedes the original development consent with regards to the days and event allocations outlined above.

MOD 90-12-2007 Extension of time-limited consent (December 2007)

MOD 90-12-2007 to DA 445-10-2003 sought an extension to the time-limited consent imposed by the original approval by 1 year, and was approved on 10 December 2007.

MOD 52-6-2008 Extension of time-limited consent (July 2008)

MOD 52-6-2008 of DA 445-10-2003 sought a further extension to the time-limited consent imposed by the approval (as modified) and was approved on 24 July 2008.

2.2 Deletion of time-limitation (Condition 3)

MOD 90-12-2007 and MOD 52-6-2008 referenced above, sought extensions to the time-limited consent imposed by the original Development Consent, resulting in the ongoing requirement to extend the time limitation of the original approval through modification applications. As such, this modification application seeks the omission of the time-limitation condition in order to remove any ambiguity in relation to the ability to carry out development under the terms of the consent and to negate the need for a recurring modification application.

2.3 Reallocation of event days per event and reduction of events (Condition 5)

The proposed modification of the consent seeks to reallocate the number of event days per event. The modification is required as demand has increased for events that are carried out for a period of more than 11 event days per event. The proposed modification does not seek to increase the overall number of days permitted to carry out events over the course of a year.

The proposed modification also seeks to incorporate corporate functions with the performing arts / community events under the existing 99-day cap. This ultimately will result in less days over the course of a year for events by 28 days.

One-off event in 2016 – Sydney Opera House: The Opera

The proposed modification seeks to permit a one off, 25-day event in 2016 on the Southern Forecourt and Monumental Steps of the Sydney Opera House, being the planned performances of *Sydney Opera House – The Opera*.

In October 2016, *Sydney Opera House – The Opera* is proposed to be performed on five occasions over two weekends. The performance will be held on the steps of the Opera House with the audience seated on the forecourt. The performances will have an audience capacity 4,500 people. Infrastructure for the performances (fencing, seating and some of the set) will remain in situ for 24 days (including bump-in and out). The performance is intended to commemorate those involved in the creation and delivery of the Sydney Opera House. The performances will be orientated such that they occur on the Monumental Steps, with the audience seated on the Southern Forecourt, with the Sydney Opera House serving as a backdrop to the performance. A preliminary site layout plan of the proposed event is shown in the extract in **Figure 3** below.

The performances are proposed to be subject to the existing conditions of Development Consent DA 445-10-2003, and to the conditions proposed to be modified under this modification application. Included in **Appendix B** are plans which show the various phases for setting up the performances, the location of equipment, and pathways for public access during and outside performance hours.

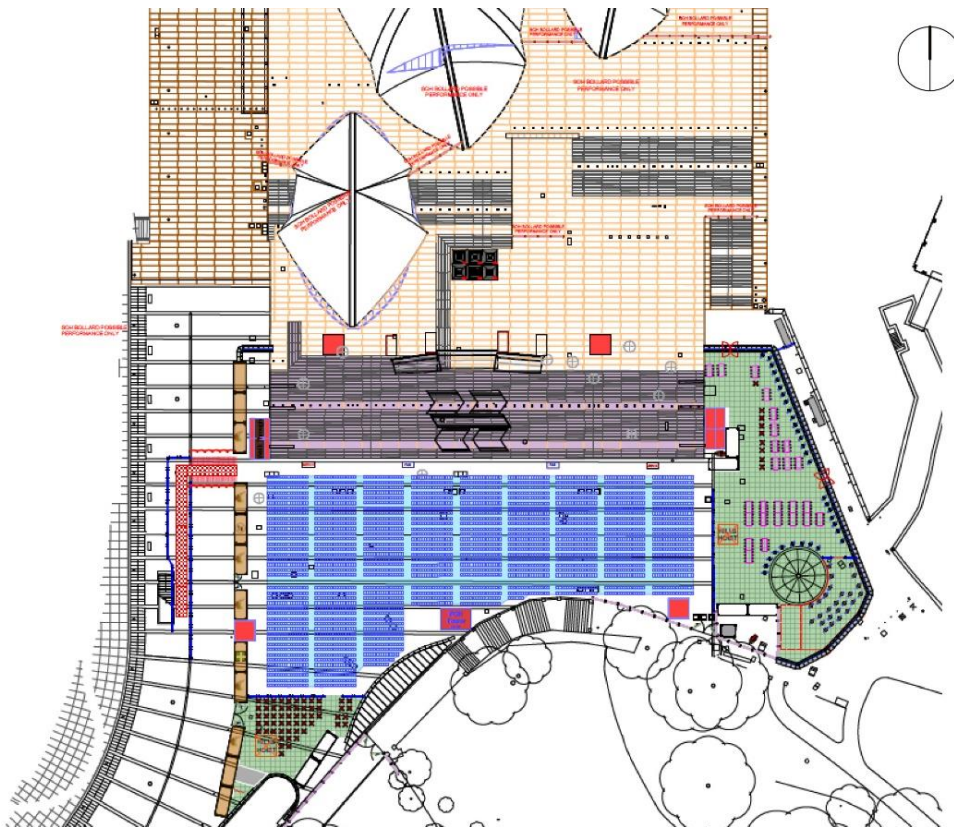


Figure 3 – Preliminary site plan of proposed performance

Source: Opera Australia

2.4 Modification to hours of operation for events and functions (Condition 7)

The modification application seeks to rationalise the existing approval with regards to the hours of operation for events to be consistent for each day of the week. The current approval has separately permitted hours of operation for performing arts / community events and corporate functions, with an 8am to 11pm restriction on performing arts / community events and an 8am to 12 midnight restriction on corporate functions. The proposed modification seeks to rationalise all event hours of operation to 8am to 12 midnight, for the following reasons:

- The need to ensure pack down of the site and to make the site safe and ready for the next morning. This includes band pack down and facilities pack down, which often is required up to one hour after the formal end of an event (which would be 11pm), as well as allowing time for crowds to depart the site following the end of an event. The extension of hours therefore is to effectively extend the time allowed for pack down of the site from 11pm to midnight;
- To reflect the intention to incorporate corporate functions with performing arts / community events under the existing 99-day cap; and
- To ensure a consistent regime, which will allow for efficient noise management.

It is noted that no change is proposed to the cut off time for amplified music under the original development consent, being 11pm (refer to Condition 42).

2.5 Modification of requirements for food licensees (Condition 14)

Condition 14 of the current development consent requires that NSW Health be notified of all forms of food functions or events. However, it is noted that under the current framework, food businesses may be exempt from this requirement if they meet the criteria listed by the NSW Department of Primary Industries, Food Authority. Condition 14 is proposed to be amended accordingly.

2.6 Modification to existing acoustic conditions (Conditions 33, 34, 42 and 43)

The existing Development Consent DA 445-10-2003 contains conditions which relate to noise limits for sound amplification for performing arts / community events, and separately for corporate functions. The existing approval provides for maximum permitted noise levels when measured at the Bennelong Apartments between 10am and 11pm on any day, providing differing limits for the days of the week between Sunday and Thursday, and between Friday and Saturday.

This modification application seeks to rationalise these limits for both performing arts / community events and corporate functions, so that the same limits apply every day of the week, from Monday to Sunday. Modifying these conditions will ensure there is one set of noise conditions for all events and days of the week, which will simplify the noise management process. Furthermore, the limits are sought to be rationalised to the current maximum permitted, and therefore, the proposed modifications will not result in any overall increase in the permitted noise amplification levels imposed by the current Development Consent.

The modifications proposed are based on the findings of an acoustic assessment conducted by Acoustic Studio, which can be viewed in **Appendix C** and is discussed further in **Section 5.2** of this report.

2.7 Deletion of requirement for POPE Licences (Conditions 54 and 55)

Conditions 54 and 55 of Development Consent DA 445-10-2003 relate to the need for the applicant to obtain an 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. These conditions are proposed to be deleted as part of this modification application to reflect changes made to the planning system through the *Environmental Planning and Assessment Amendment Act 2008*, which repealed the Place of Public Entertainment (POPE) legislation. Conditions 54 and 55 read as follows:

PLACE OF PUBLIC ENTERTAINMENT

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.

The Department of Planning's Planning Circular PS 09-028 confirms that the amendments were made to facilitate the wider provision of live entertainment at premises around NSW by removing unnecessary regulation, whilst retaining appropriate safeguards to public amenity and safety. This resulted in:

- The repeal of the requirement to 'use a building or temporary structure as a place of public entertainment or permit its use a place of public entertainment' in Section 68 of the *Local Government Act 1993*;
- POPE licences being no longer needed; and
- POPE licences and conditions no longer having effect from 26 October 2009.

Accordingly, Conditions 54 and 55 are proposed to be deleted from the existing Development Consent.

3.0 PROPOSED MODIFICATIONS TO DA 445-10-2003

The proposed modification application seeks to:

- Omit **Condition 3**, which appears to impose a time limitation on the carrying out of development under the consent. The omission of this condition will remove any ambiguity in relation to the ability to carry out development under the terms of the consent;
- Modify **Condition 5** of the Development Consent as outlined in the table below (proposed modifications in strikethrough and bold red) to facilitate:
 - The reallocation of the number of event days per event;
 - Incorporation of corporate functions with the performing arts / community events under the existing 99-day cap, resulting in less days over the course of a year for events by 28 days; and
 - A one-off event in 2016 for a duration of 25 days, including bump in and bump out (being the planned performances of *Sydney Opera House – The Opera*;

	MAXIMUM NUMBER OF DAYS PER YEAR MAXIMUM NUMBER OF EVENTS AND DAYS PER EVENT (Inclusive of set up and clean up)	MAXIMUM NUMBER OF DAYS PER YEAR
Performing Arts / Community Events and Corporate Functions	26 5 events (maximum of 11 days per event, and 99 days per annum)	Up to a maximum of 99 days per annum
	3 events (maximum of 20 days per event)	
	1 event in 2016 (maximum of 25 days)	
Corporate Functions	6 functions (maximum of 7 days per function, and 28 days per annum)	

- Modification to **Condition 7** to rationalise the existing approval with regards to the hours of operation for events to be consistent for each day of the week, effectively allowing pack down of the site to occur from 11pm to midnight. The following modifications to the condition is proposed (in strikethrough and bold red):

HOURS OF OPERATION FOR EVENTS AND FUNCTIONS

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

COMMENCEMENT TIME	CESSATION TIME
8am	11pm 12 midnight

(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).

- Modification to **Condition 14** to allow an exemption for food businesses to notify NSW Health if they meet the criteria listed by the NSW Department of Primary Industries, Food Authority. The following modifications to the condition are proposed (in strikethrough and bold red):

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. **Food businesses may be exempt from this requirement if they meet the criteria listed by the NSW Department of Primary Industries, Food Authority.**

- Modification to **Conditions 33, 34 and 42**, and deletion of **Condition 43** (no longer relevant as corporate functions included within performing arts / community events) to rationalise the maximum noise amplification limits for both performing arts / community events and corporate functions under the current Development Consent, so that the same limits apply every day of the week, from Monday to Sunday. Modifying these conditions will ensure there is one set of noise conditions for all events and days of the week, which will simplify the noise management process. The following modifications to the conditions are proposed (in strikethrough and bold red):

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}~~ **dBC_{eq} (5min)** 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

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

Noise Limits for Sound Amplification for Performing Arts/ Community Events and Corporate Functions

42. Between the hours of 10am– 11pm on **Monday to Sunday** ~~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) **$85dBC_{eq}$ (5min) at the Bennelong Apartments** ~~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).~~; and

b) **$80dBC_{eq}$ (5min) at other residential receivers** ~~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).~~

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).~~

- Deletion of **Conditions 54 and 55**, removing the requirement for the applicant to obtain an approval under Section 68 of the *Local Government Act 1993* for a POPE Licence prior to the use of the premises commencing (no longer required).

An assessment of the environmental effects of the proposed modifications is provided in the following sections.

4.0 ENVIRONMENTAL ASSESSMENT

4.1 Assessment Against Statutory and Strategic Framework

Environmental Planning and Assessment Act 1979 (EP&A Act)

The EP&A Act together with the EP&A Reg. provide the statutory framework for the proposed modification. Due to the operation of clause 8J(8) of the Regulation (which is continued in force by virtue of clause 12 in Schedule 6A to the EP&A Act despite the repeal of Part 3A) section 75W applies to the modification of the consent as it was granted by the Minister under Part 4 of the Act (as State significant development) before 1 August 2005.

Sydney Local Environmental Plan 2012

The development as modified is permissible with consent under Zone B8 – Metropolitan Centre zone under the *Sydney Local Environmental Plan 2012*.

4.2 Heritage listings

The Sydney Opera House is a State, National and World Heritage listed site.

Heritage Act 1977

Approval from the Heritage Council is required for development at the Sydney Opera House under section 57 of the *Heritage Act 1977*, notwithstanding that the development is State significant development (see clause 90 of Schedule 6 and clause 16 of Schedule 6A of the EP&A Act).

Environment Protection and Biodiversity Conservation Act 1999

The *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) provides protection from actions that are deemed likely to have an impact on a Matter of National Environmental Significance (MNES) including sites listed as World Heritage Items. The EPBC Act is administered by the Commonwealth Department of the Environment.

The Commonwealth Department of the Environment were briefed on the 21 June 2016. After discussion with the Department of Environment, the Sydney Opera House Trust has determined that the proposal will not require a referral to the Department of the Environment under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005* (REP) sets out the objectives and guiding principles for the Sydney Harbour Catchment. It also sets out a range of matters for consideration that must be taken into account in the assessment of an application within the 'Foreshores and Waterways Area' defined by the REP. The Sydney Opera House falls within this area and is afforded a heritage buffer zone to protect the World Heritage values of the site.

The areas accommodating the proposed annual performances are located on the monumental steps and forecourt, and as such are unlikely to impact on the heritage significance of the Sydney Opera House building. Notwithstanding this, the section 75W modification application will demonstrate that the proposal:

- does not detract from the Sydney Opera House as a cultural masterpiece of human creative genius;
- does not detract from the visual prominence of the Sydney Opera House;
- minimises the impact on views and vistas to and from the Sydney Opera House; and
- maintains, protects and enhances views to the Sydney Opera House.

A Heritage Impact Assessment has been prepared and is included in **Appendix J**. This report provides an assessment of the impact of the proposed production of *Sydney Opera House – The Opera* on the setting and external views of the Sydney Opera House, as well as other events permitted under DA-45-10-2003, as proposed to be modified.

4.3 Site specific policies

Clause 288 of the Regulation requires development carried out at the Sydney Opera House to be implemented in accordance with the Management Plan for the Sydney Opera House.

Sydney Opera House Management Plan

The Sydney Opera House Management Plan was prepared under the EPBC Act to protect and conserve the World Heritage values of the Sydney Opera House and to ensure adequate environmental assessment in respect of any development on site. The Management Plan (which incorporates the Sydney Opera House Conservation Management Plan and the Utzon Design Principles) must be taken into account by a consent authority when determining an application relating to development carried out at the Sydney Opera House.

The proposed modification is consistent with the Management Plan as it will not impact on the world heritage values or national heritage values of the Sydney Opera House. Furthermore, the proposed modification has been prepared in accordance with the requirements of the Management Plan having regard to the assessment and approval processes stipulated for any proposed development and/or modification proposed for the Sydney Opera House.

Sydney Opera House Conservation Management Plan

This document provides some background to the site and its history. It also assesses the significance of the place, and provides conservation policies based on the identified heritage values of the Sydney Opera House.

An assessment of the key policies applicable to the proposed modification has been provided in **Table 1** below.

Table 1 – Assessment of proposed modifications against key policies of the Sydney Opera House CMP

Policy No.	Policy	Assessment
Policy 3.1	<i>The erection of long stay structures as venues for hire (or for any other purpose) is unacceptable on the forecourt, boardwalk and podium stairs and platform.</i>	The proposed modifications will not result in the erection of long stay structures for hire (or for any other purpose) on the forecourt. The proposed modification is effectively the reallocation of days currently permitted for outdoor performing arts events, with a one off performance in 2016 to facilitate a 25-day event (including bump in and bump out). No overall increase in days per year is proposed, (in fact an overall reduction in events is proposed annually) and the proposed modification seeks to maintain a maximum days per event for various event lengths. The total days per annum will remain 99 days, including set up and clean up.
Policy 3.4	<i>The frequent or long stay erection of above ground performance facilities and fencing that results in the visual encumbrance of the setting and the loss of public access to, and views across, the forecourt is unacceptable.</i>	The proposed modifications include a set of principles to guide future performances, ensuring that outdoor performing arts events on the site will not result in the visual encumbrance of the setting and the loss of public access to, and views across, the forecourt. Whilst the existing approval allows for temporary structures to be erected, these structures do not result in impacts to the heritage significance and appreciation of the overall site, and this is not proposed to change as part of the modification.
Policy 3.5	<i>Whatever activities take place, fencing designed to block public vision across or into the forecourt is unacceptable.</i>	The existing approval contemplates and includes conditions which control the provision of temporary structures associated with outdoor performing arts. These conditions have been developed in the original granting of consent. The proposed modification does not seek to alter these arrangements. Guiding principles outlined in Section 5.4 of this report will apply to any proposed temporary structure in order to ensure public vision across the forecourt is not unduly impacted and to ensure that any temporary structure is sympathetic to the heritage significance of the Sydney Opera House.
Policy 6.2	<i>Proposals that obscure the original exterior form of the Opera House are unacceptable.</i>	As outlined above, the existing approval contemplates and includes conditions which control the provision of temporary structures associated with outdoor performing arts. The principles outlined in Section 5.4 will be applicable to performances in the future and will ensure no performances obscure the original exterior form of the Sydney Opera House.

Utzon Design Principles

The *Utzon Design Principles 2002* provides guidance from the architect of the Sydney Opera House, Jørn Utzon with regard to best practice and to guide management and development of the site. An assessment of modifications against the key principles applicable to the modification has been provided in **Table 2** below.

Table 2 – Assessment of proposed modifications against key Utzon design principles

Utzon Principle	Assessment
Keep the approach, the openness and fluidity of movement <i>“One of the great features of the Opera House is the approach, the openness, the fluidity of people’s movements through the house, and once you clutter this you have a problem.” (1)</i>	The proposed modifications do not seek to alter currently approved arrangements for outdoor performances, with the openness and fluidity of movement within and around the Sydney Opera House to be maintained with future performances.
Forecourt should not be cluttered <i>“Forecourt should not be cluttered with new buildings at any size.” (1)</i>	Temporary structures associated with outdoor performances will not result in visual clutter. No permanent structures are permitted in the forecourt as part of the current approval or proposed as part of this modification.
Possibilities for all types of cultural performances <i>“The Sydney Opera House with its three theatre stages offers a possibility for all levels of cultural performances. There are only a few houses in the whole world which are similarly designed.” (3)</i>	The proposed modification will provide greater flexibility in attracting all types of cultural performances to be performed on the Monumental Steps and Southern Forecourt.
Outdoor auditoria with city backdrop <i>“This outdoor auditorium created by the grand staircase is of course part of the townscape and is also very dependent upon what goes on elsewhere in the city. Because as you sit on these stairs you look towards the city, and you have the city and its buildings as a background to whatever happens on the forecourt.” (1)</i>	The proposed modification is consistent with the principle for outdoor auditoria in the Utzon principles, as it will provide greater flexibility for the delivery of world-class outdoor performances.

5.0 OVERVIEW OF POTENTIAL ENVIRONMENTAL AND PLANNING ISSUES

If modified, the development the subject of the modified consent will result in limited environmental consequences beyond those which had been the subject of the original project assessment, as the proposed modification (insofar as it relates to the reallocation of the number of event days per event) is proposed to be carried out within the parameters of the existing consent with regard to:

- capacity;
- hours of operation;
- lighting and acoustic compliance;
- public access;
- waste management;
- parking and transport;
- temporary structures (the modification seeks to implement proposed principles with regard to temporary structures);
- monitoring; and
- safety and security; and
- being carried out on the Southern Forecourt and Monumental Steps of the Sydney Opera House as envisaged under the original consent.

An assessment of the environmental impacts of the proposed modifications is detailed below.

5.1 Visual Impact

The proposed modifications are not anticipated to result in any significant adverse visual impacts resulting from performing arts / community events, as it primarily seeks to reallocate the number of event days per event. This will ensure that the performances continue to remain for a limited time period. The proposed modification does not seek to alter the existing environmental parameters under the current consent, particularly with regard to capacity, lighting, public access and temporary structures and therefore, is unlikely to result in an additional visual impact as a result the reallocation of days per event.

5.2 Acoustics

An Acoustic Assessment has been prepared by Acoustic Studio to accompany this modification application (**Appendix C**), the findings of which are discussed in **Section 4** of this report. This objectives of the assessment carried out by Acoustic Studio were to:

- Identify noise sensitive receivers (including internal spaces in the Sydney Opera House itself) that may be affected by the operation of the proposed Sydney Opera House outdoor events.
- Review existing environmental noise data to determine existing ambient and background noise levels at the nearest noise sensitive receivers that surround the site.
- Establish the appropriate noise assessment criteria in accordance with the relevant standards and guidelines.
- Carry out an assessment to determine whether the relevant criteria can be achieved based on proposed operations.
- Where applicable, provide recommendations for any necessary acoustic control measures that will need to be incorporated into the planning or operation of outdoor events in order to ensure compliance with the assessment criteria.

Methodology

The acoustic assessment reviews how successfully the noise limits set in DA-445-10-2003 have been applied until 2016, and whether the noise limits are suitable for the Sydney Opera House Forecourt and Western Boardwalk. The acoustic assessment also includes a review of potential noise impacts from event-related noise due to bump-in and bump-out activities, patrons, and mechanical plant and equipment. Applicable noise targets are presented and noise predictions are made for these noise sources in the assessment.

Findings

As part of review of sound system noise, a review of historical event management reports highlighted a common problem that it is very difficult to measure and discern “performance event noise” using the current L_{Amax} and L_{Cmax} measurement method.

The A-weighting filters out much of the bass (low frequency noise) characteristic of music events. The C-weighting has fairly equal weighting for low to high frequencies. It is difficult to distinguish from measurements whether an A-weighted level is from an outdoor event, or from some other event (ferry, bus, pedestrian, helicopter), because the existing ambient at Bennelong Apartments is about the same as the current A-weighted noise limit.

The C-weighted noise level best correlates with noise complaints received in the past from SOH outdoor events, because of the greater difference between the C-weighted event noise and existing ambient level (called “emergence above ambient”), and also because bass noise is known to be a common cause of disturbance - including inside a building because it is not well attenuated by windows.

Proposed changes

The outcome of the noise assessment is that the noise limits set in 2003 are difficult to measure consistently and that this has affected the noise management outcomes. This acoustic report proposes adopting a more robust C-weighted, 5-minute sound energy averaged measurement method. It will ensure that event noise is more accurately identified through measurements, and will reduce excessively bass-heavy sound that is known to cause increased annoyance in the community. Importantly, the proposed L_{Ceq(5min)} noise limit is equivalent to the L_{Cmax} limit which has applied since 2003, and therefore does not constitute an increase in allowable event noise level. The proposed limit focuses on the C-weighted level because it ‘emerges’ more from background and ambient noise, and is easier to detect.

Management controls will continue to apply for Sydney Opera House outdoor events, including noise management plans, selection and orientation of directional loudspeaker systems, and noise monitoring for sound checks and events.

Supporting documentation

Also included with this modification is an acoustic impact assessment which assesses the impact of the five performances of the one-off Opera Australia event, being *Sydney Opera House – The Opera*, included in **Appendix D**. This report provides an overview of the performances, outlines the applicable acoustic criteria, provides an acoustic assessment of the proposal against these criteria and provides a conclusion on the impacts of the performances.

A supporting statement (**Appendix E**) has also been prepared by the author of the report, which provides additional information and outlining that the proposed performances of the one-off event and the associated sound pressure levels estimated to be created during the performances will significantly below the current limits.

5.3 Light spill

The existing development consent includes conditions to mitigate potential light spill impacts associated with performing arts / community events and corporate functions. The proposed modification does not seek to modify these existing conditions which effectively regulate the impact of lighting from the proposed performances. To this end, a letter prepared by the Director of Performing Arts from the Sydney Opera House has been provided which confirms the Opera House Trust's continued commitment to compliance with these conditions with events on the Southern Forecourt and Monumental Steps (**Appendix F**). Further to this, a letter has also prepared by Norman Disney and Young Lighting Design (**Appendix G**) which demonstrates that the lighting of the existing forecourt achieves compliance with these Australian Standards.

With regards to the one-off Opera Australia event in 2016, a Lighting Impact Assessment has been prepared (**Appendix H**), which has been developed to determine the impact of the theatrical and safety lighting of the five performances of *Sydney Opera House – The Opera*. The assessment provides detailed information on the proposed lighting for the performances, including lighting from theatrical equipment, site safety lighting, and indirect lighting. The assessment concludes that the proposed lighting will not result in negative impacts on the surrounding environment. The Lighting Impact

Assessment is supported by a letter from Eleven Design, being the lead designer of the lighting proposed for the performances (**Appendix I**).

5.4 Heritage

A Heritage Impact Statement has been prepared and is included in **Appendix J**. This report provides an assessment of the heritage impact of the proposed modifications to the existing development consent with regard to the proposed one-off Opera Australia event in 2016, and is prepared by Alan Croker of Design 5.

Methodology

The basis for the assessment is:

- The Conservation Plan 3rd edition, 2003, by James Semple Kerr:
 - Kerr, James Semple, Sydney Opera House, A Revised Plan for the Conservation of the Sydney Opera House and its Site. Third Edition, SOHT, 2003 (referred to below as the CMP 3rd edition); and
- The Utzon design principles:
 - Sydney Opera House, Utzon Design Principles, SOHT May 2002 (referred to below as the UDP 2002)

The fourth edition of the Conservation Management Plan, 4th edition is presently in draft form and is also referred to in this report. The draft referred to is dated June 2015. It is referred to as the CMP draft 4th edition. The Heritage Impact Statement has also been prepared in accordance with the principles and processes of the Australia ICOMOS Burra Charter 2013. Its preparation follows the process and model recommended in the NSW Heritage Office guideline Statements of Heritage Impact (revised 2002), including consideration of alternative options and their impact.

The report provides assessment commentary on the impacts of both aspects on a number of factors, including:

- World Heritage Values of the Sydney Opera House;
- National Heritage Values of the Sydney Opera House;
- National Heritage criteria;
- State Heritage Values of the Sydney Opera House;
- State Heritage Register criteria;
- Sydney Opera House Conservation Plan (CMP) 3rd edition;
- The significant elements of the Sydney Opera House (including its topographic setting, forecourt, podium); and
- Utzon Design Principles.

Assessment

The report concludes that, whilst the staging of the one-off event will have temporary impacts on the setting of the Opera House, and on public access to the Forecourt, Podium, Monumental Steps and Vehicle Concourse, on balance, the impacts are considered acceptable and modification application is recommended for approval. The report includes a number of mitigation measures which are recommended for consideration by Opera Australia to further mitigate potentially negative impacts:

1. Stage, rear and side-stage trucks and props, when not in use and between blocks of performances should, where possible, be moved to the eastern end of the monumental steps to minimise visual intrusion and to maximise public access to these steps;
2. All containers, scaffold towers etc should be covered in a suitable screening material with appropriate graphics or artwork that reduces their visual impact and does not detract from or compete with the Opera House itself;
3. Proposed picket fencing should not be white, but a more neutral colour that does not compete with the Opera House

4. Potentially intrusive items, or those that inhibit public access should be installed at the last possible opportunity and removed as soon as possible and practicable after the performance. These include:
 - Hills Hoists at east end of Forecourt, and in Vehicle Concourse;
 - BOH marquee on the podium.
5. Infrastructure and installations required for this event should, wherever possible, comply with the Sydney Opera House Outdoor Event Guide (Sept 2015).

General forecourt events

A Heritage Impact Statement has also been prepared which assesses the forecourt events generally and is included in **Appendix K**.

This report concludes:

Outdoor performing arts and community events potentially support and celebrate the World Heritage values of Sydney Opera House and promote creativity and excellence in the performing arts. These outdoor spaces have been the focus of some of the most important performing arts and community events in Sydney and Australia's recent history and this should continue. These occasions frequently attract audiences that may not normally attend performances at the Opera House, thus broadening the appreciation of the place amongst a wider public.

While acknowledging that any event and its associated infrastructure will be a temporary inconvenience to some lasting no longer than 20 days, for others, particularly those visitors with limited time, it could be a major inconvenience and disappointment. For others it may be an enticement to attend a performance or explore further.

The potentially increased impacts arising from this proposed modification to the DA are only in terms of the public perception of less frequent but longer lasting events on the Forecourt. A regime of event free periods is proposed in the draft Heritage Guidelines that should mitigate these perceptions. This will potentially allow more visitors to fully appreciate the Opera House's exceptional setting and architecture.

Potentially negative impacts from this increased event duration could be substantially reduced with the implementation of the proposed heritage guidelines for outdoor events. To further mitigate potentially negative impacts from any activity or event, the following recommendations are proposed:

1. *Infrastructure associated with any event or activity should be designed and sited to minimise intrusion into primary view lines on the southern approach to the site (as defined in the Heritage Guidelines for Outdoor Events & Activities – presently in draft) and to maximise public access to the Forecourt and Monumental Steps;*
2. *All structures, scaffold towers etc should be covered in a suitable screening material with appropriate graphics or artwork that reduces their visual impact and does not detract from or compete with the Opera House itself;*
3. *No infrastructure element should be highly reflective, white or off-white, but a more neutral colour that does not compete with the Opera House shells or Podium;*
4. *Potentially intrusive items, or those that inhibit public access should be installed at the last possible opportunity and removed as soon as possible and practicable after the event.*
5. *All event infrastructure and installations, including fencing and signage, should be of high quality design and execution, that does not diminish or detract from the setting and presentation of this World Heritage Listed site.*
6. *Infrastructure and installations required for any event must comply with the latest version of the Sydney Opera House Outdoor Event Guide and associated Heritage Guidelines.*
7. *An initial period of 12 months be allowed to reach full compliance with height and colour controls set out in the Heritage Guidelines for Outdoor Events & Activities.*

We recommend the application to modify the DA be approved.

5.5 Traffic and Transport

A Transport Assessment has been provided by Arup and is included in **Appendix L**. A traffic management plan has also been prepared and is included in **Appendix M**. The objectives of the transport assessment were to:

- evaluate daily and peak traffic movements likely to be generated by the performances, including peak traffic movements during special events;
- identify any temporary and or permanent event specific upgrades to roads/intersections required to facilitate the performances;
- detail access arrangements for workers to/from the site, emergency vehicles and service vehicle movements;
- detail how visitors and the public (as relevant) will access and leave the site;
- demonstrate how staff and visitors to the site will be able to make travel choices in order to minimise adverse traffic impacts;
- include details on parking provision on-site and in nearby carparks, and on street, with parking demand assessed and measures to discourage/provide alternatives to private car use identified;
- include details of the measures proposed to encourage event patrons to cycle to the site, and any measures required to manage cycling traffic and bicycle parking.

Methodology

The Transport Assessment considers the existing transport conditions and assesses the performances with regards to the impacts they will potentially have on pedestrian management, vehicular site access and exits, road network impacts, public transport, parking, and also does this in the context of the Opera Australia one-off event. Site Activation Plans are also included in the reporting, which demonstrate the various levels of activation of the Sydney Opera House site depending on the nature of the events which are occurring at any given time.

Assessment

The proposed modification will not result in impacts on or changes to the traffic and transport arrangements which are currently in place for performing arts / community events which occur on the monumental steps and southern forecourt of the Sydney Opera House under the existing consent.

It is anticipated that public transport will be the primary method of travel for visitors attending performances, given the highly accessible location. Furthermore, the modification does not seek to modify the existing limitation of 6,000 people contemplated in the current development consent.

The following mitigation measures will contribute to the efficient management the transport network before, during and after outdoor events at the Sydney Opera House:

- Continued collaboration with nearby trip generators via the event organising group to manage cumulative traffic impacts associated with outdoor events.
- Dampening the departure profile immediately after events by offering patrons alternatives in the form of nearby entertainment. These could be offered by surrounding destinations, and would have the benefit of decreasing the peak transport demand.
- Event management plans will continue to be prepared outlining the measures in place to manage vehicle and pedestrian movements prior, during and after events.
- Efficient management of delivery vehicles, particularly during outdoor events
- The recent implementation of the Vehicle and Pedestrian Safety (VAPS) to achieve the long standing objective of separation of heavy vehicles and pedestrian traffic on the forecourt of the Sydney Opera House
- Consideration of better promoting the cycle parking available to staff and patrons of outdoor events via the Sydney Opera House website.
- Consideration of improved wayfinding, information services and a more efficient way of allocating taxis.

The transport assessment concludes that the transport impacts arising from the proposed modifications are expected to be minimal.

6.0 CONCLUSION

This Section 75W Modification Application has been prepared to modify DA 445-10-2003, relating to the use of the Southern Forecourt and Monumental Steps of the Sydney Opera House for temporary performing arts/community events and functions. The proposed modifications to DA 445-100-2003 relate principally to:

- Re-allocating the number and duration of event days currently permitted, resulting in a reduction of the total number of combined performing arts, and corporate events and event days currently permitted;
- Modifying the consent to permit a one-off event in 2016 running for 25 days (including bump-in and bump out), being *Sydney Opera House – The Opera*, to commemorate the creation of the Sydney Opera House, which is proposed to be conducted on the Southern Forecourt and Monumental Steps of the Sydney Opera House;
- Updating existing conditions of consent to reflect modified arrangements for conducting outdoor events on the Southern Forecourt and Monumental Steps generally, such as amending the hours of operation of events and rationalising and updating acoustic conditions to improve noise management and provide a more robust method for identifying and measuring event noise; and
- Deleting of several outdated conditions from the 2003 approval which are no longer relevant to outdoor performances conducted on the Southern Forecourt and Monumental Steps.

It is considered that the proposed modifications are therefore minor, and will not result in any adverse impacts as future performances will be carried out largely within the environmental parameters of the existing consent, with the proposed modifications ensuring future performances will not result in adverse impacts. All potential environmental impacts of the one-off performance have been considered throughout the report with input from specialist consultants in the fields of heritage, lighting, acoustics and traffic.

The modifications are minor in nature and will not result in any adverse environmental, social or economic impacts. In light of the benefits this modification will enable, we recommend this Section 75W Modification be approved.

Should you have any queries about this matter, please do not hesitate to contact me on (02) 9956 6962 or gkirkby@jbaurban.com.au.

Yours faithfully



Gordon Kirkby
Director