



MODIFICATION REQUEST:

***Sydney Opera House – DA 445-10-2003
(MOD 4) – Use of the Forecourt,
Monumental Steps and Western Broadwalk
for Temporary Events***



Environmental Assessment Report
Section 75W of the
Environmental Planning and Assessment Act 1979

October 2016

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1. BACKGROUND

1.1 Introduction

This report provides an assessment of a section 75W modification application, lodged by the Sydney Opera House Trust (the Proponent), seeking to modify the development consent DA 445-10-2003 for the use of the Southern Forecourt and Monumental Steps for temporary outdoor events and functions.

The modification application (MOD 4) seeks to allow the current temporary approval to operate permanently, to re-allocate the number of events and durations currently permitted and amend and delete conditions, including acoustic conditions and those no longer relevant to the holding of outdoor events.

1.2 Location

1.2.1 Sydney Opera House Site

The Sydney Opera House (SOH) is one of the world's most distinctive and recognisable buildings and attracts approximately 8.2 million visitors per year. It is situated at the north-eastern edge of the Sydney CBD adjoining Sydney Harbour at 2 Circular Quay East, Bennelong Point (**Figure 1**). The SOH building itself sits above a large forecourt area known as the Southern Forecourt which is paved with cobblestone, precast and etched pink reconstituted granite (**Figure 2**). The Monumental Steps is the 100 metre wide staircase connecting the Southern Forecourt to the elevated platform entrance of the SOH. The SOH is surrounded by broadwalks (western, northern and eastern) which adjoin the Sydney Harbour foreshore (**Figure 2**). Tarpeian Way is the pathway above the forecourt that extends alongside the gardens and parallel to Macquarie Street.



Figure 1: Site location (shown in green – Source: Google Images)

1.2.2 Site context

The site boundary is outlined in **Figure 1** and is surrounded by substantial public open space, including the Royal Botanic Gardens, Government House and Circular Quay. Circular Quay, located to the south-west of the SOH, is a principal entry point to Sydney from the Harbour and provides a core pedestrian thoroughfare connecting the CBD to the SOH site. The Royal Botanic Gardens adjoins the site to the south-east with Government House and

the gardens elevated directly south above the site. A mixed-use residential apartment building (Bennelong Apartments) is located south-west of the site at 1 Macquarie Street (Figure 2).

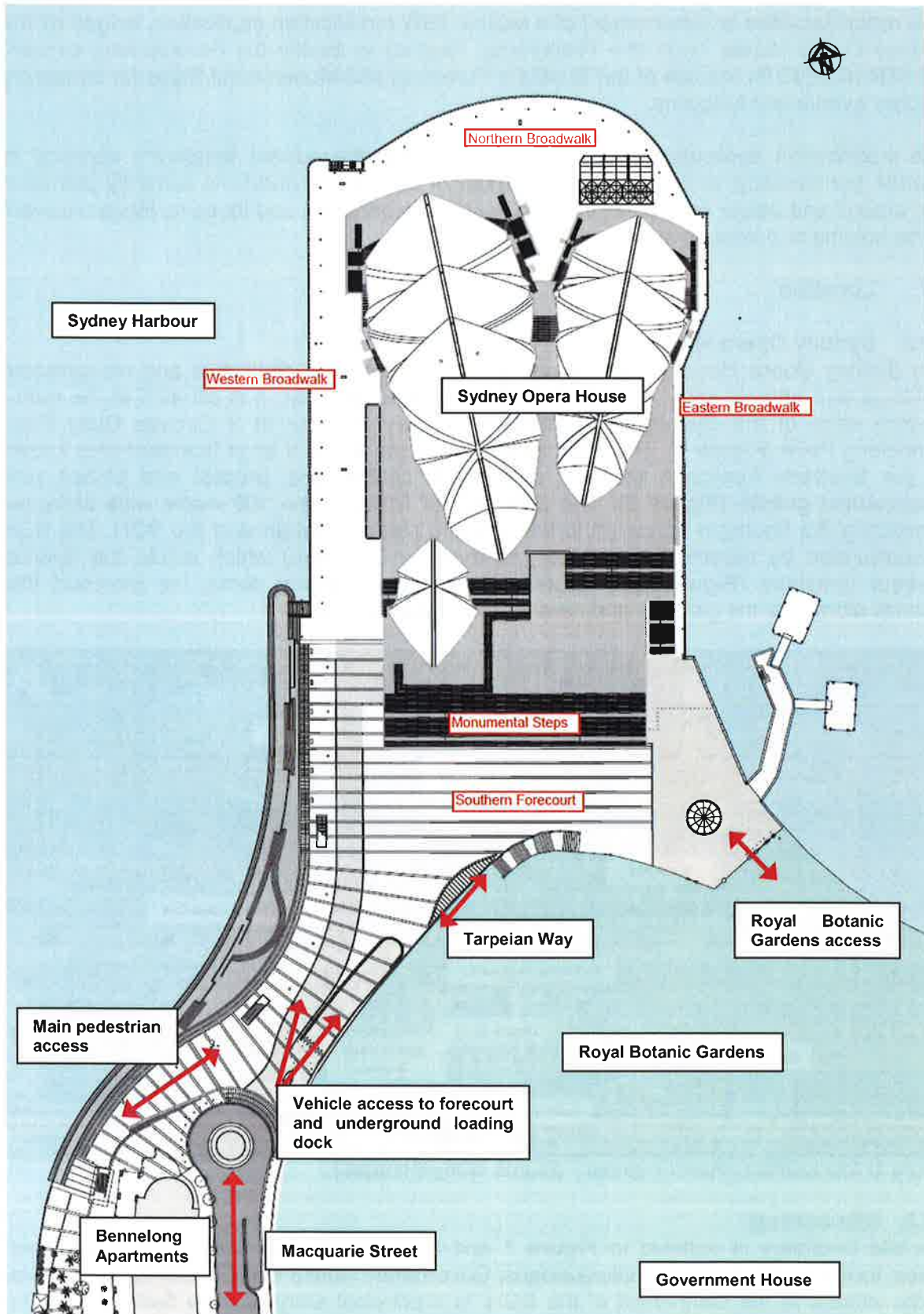


Figure 2: Site plan showing location of outdoor events and functions (Source: EA)

1.3 Approval History

DA 445-10-2003

On 29 June 2004, the then Minister for Infrastructure and Planning approved DA 445-10-2003 under Part 4 of the Environmental Planning and Assessment Act 1979 (EP&A Act) to permit the use of Southern Forecourt and Monumental Steps for a total of eight temporary events and functions per year (**Table 1**).

Table 1: Maximum number of event permitted by DA 445-10-2003 (Condition 5)

	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)

The consent was time-limited to lapse three years from the date of determination. The consent also limited the patronage of events to a maximum of 6,000 persons and 2,000 persons for functions.

DA 445-10-2003 has been subsequently modified on three occasions, which are outlined below.

MOD 6-1-2005

On 22 March 2005, the Department of Planning and Environment (the Department) approved a modification (MOD 6-1-2005) to increase the maximum number of events and functions per year from eight to 32. This included approval for 26 performing arts/community events per year (12 low, 9 medium, five high impact), and six high impact corporate functions on the Southern Forecourt, Monumental Steps, and Broadwalk area of the SOH (**Table 2**).

Table 2: Maximum number of event permitted by MOD 6-1-2005 (Condition 5)

	Maximum number of 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 90-12-2007

On 10 December 2007, the Department approved a modification (MOD 90-12-2007) to allow a one year extension to the three year time limit placed on the consent.

MOD 52-6-2008

On 24 July 2008, the Department approved a modification (MOD 52-6-2008) to allow a further extension to the time limit placed on the consent.

2. PROPOSED MODIFICATION

2.1 Modification Description

The modification application seeks to allow the originally temporary approval to operate permanently, to re-allocate the number of events and durations currently permitted and amend and delete conditions, including acoustic conditions and those no longer relevant to the holding of outdoor events.

The proposed modifications (as amended by the Response to Submissions) to particular conditions are set out in detail below.

Condition 3 – Time limited consent

The modification seeks to delete Condition 3 which only allows the holding of temporary outdoor events and functions at the site until 31 December 2009. Approval is therefore sought for the permanent on-going use of the site for holding temporary outdoor events and functions.

Condition 5 - Maximum number of events and functions

The modification seeks to amend Condition 5 to re-allocate the number of events and functions and durations currently permitted. The modification would combine events and corporate functions under a single 99 day cap.

The modification also seeks to permit a one-off event in 2016 running for 25 days (including bump-in and bump-out days for assembling and dismantling temporary infrastructure), being Sydney Opera House – The Opera, to commemorate the creation of the Sydney Opera House.

Events and functions would be held on the Southern Forecourt, Monumental Steps and Western Broadwalk (**Figure 2**) and require the erection of temporary structures such as stages, lighting towers, seating, food stalls and portable toilets. Types of events held would include large live music performances (e.g. Australian Idol), community events (e.g. Greek National Day), private events and corporate functions, festivals and government events (e.g. World Youth Day).

Condition 7 - Hours of operation

The modification seeks to extend the approved hours of operation for events by one hour from 11 pm to 12 midnight to enable an extra hour for bump-out in accordance with the proposed modified noise limits.

Condition 14 - Design for food premises

Condition 14 currently requires the Proponent to notify all forms of food functions or events to NSW Health. The modification seeks to amend Condition 14 noting food businesses may be exempt from this requirement if they meet criteria listed by the NSW Department of Primary Industries, Food Authority.

Conditions 33 and 34, 42 and 43 - Noise limits and monitoring

The existing consent conditions set noise limits at two key residential receivers (Beulah Street Wharf, Kirribilli and the Bennelong Apartments, East Circular Quay).

The modification seeks to delete the noise limits at the key residential receivers and adopt front-of-house noise limits and monitoring as an alternative approach to noise management. The modification also seeks to apply the same noise limits to events and corporate functions for all days of the week.

Conditions 54 and 55

The modification seeks to remove Conditions 54 and 55 which refer to repealed requirements of the *Local Government Act 1993* (Section 68) for place of public entertainment licenses.

3. STATUTORY CONTEXT

3.1 Continuing Operation of Part 3A to Modify Project Approvals

Under clause 8J(8) of the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation), the Minister's consent is taken to be an approval under Part 3A of the EP&A Act and can be modified by the Minister under section 75W of the EP&A Act.

Consequently, this report has been prepared in accordance with the requirements of Part 3A and the associated regulations, and the Minister (or delegate) may approve or disapprove the modification under section 75W of the EP&A Act.

3.2 Modification of the Minister's Approval

Section 75W(2) of the EP&A Act provides that a Proponent may request the Minister to modify the Minister's approval for a project. As the proposed modification seeks to alter approved conditions, the modification requires the Minister's approval.

The Department is satisfied the proposed modifications are within the scope of section 75W of the EP&A Act, and do not constitute a new application.

3.3 Secretary's Environmental Assessment Requirements

Section 75W(3) of the EP&A Act provides the Secretary with scope to issue Environmental Assessment Requirements (SEARs) that must be complied with before the matter will be considered by the Minister. SEARs were not issued for this modification as the Department did not consider that further environmental assessment requirements are needed to support the modification request.

3.4 Permissibility

Under the *Sydney Local Environmental Plan 2012*, the site is zoned B8 Metropolitan Centre. The objective of the zone is to recognise and provide business, office, retail, entertainment and tourist premises. The development is permissible with consent in this zone.

3.5 Delegated Authority

Under the Instrument of Delegation dated 16 February 2015, the Minister's function to determine modification requests under section 75W of the EP&A Act has been delegated to Executive Directors who report to the Deputy Secretary, Planning Services where:

- the relevant local council has not made an objection; and
- a political disclosure statement has not been made; and
- there are less than 25 public submissions in the nature of objections.

As the City of Sydney Council did not object, a political donation disclosure has not been made, and less than 25 public submissions in the nature of objections were received, the Executive Director, Key Sites and Industry Assessments may determine the modification request under delegated authority.

3.6 Environment Protection Biodiversity Conservation Act 1999 (EPBC Act)

The SOH site is declared a World Heritage property and a National Heritage place under section 1.2 of the *Environment Protection Biodiversity Conservation Act 1999* (EPBC Act).

Sections 12 and 15B of that Act outline the requirements for approval of actions that result in a significant impact (controlled action) on a declared World Heritage property or a National Heritage place.

Under the EPBC Act, a controlled action requires approval by the Commonwealth Department of Environment (DoE) or under Bilateral arrangements.

The proposed development involves no major works or alteration to significant fabric of the Sydney Opera House (SOH). The Proponent has advised it has met with the DoE regarding the proposal and has determined a formal referral to the DoE under the EPBC Act is not required.

The Department may determine the application noting the obligation for any necessary approval under the EPBC Act rests with the Proponent (if required as a controlled action). Critically, there is no impediment for the Department to determine the application in this regard. To ensure obligations are clear to the Proponent, the Department has recommended an Advisory Note to reinforce the Applicant's responsibilities and statutory requirements under the EPBC Act for environmental approvals (**Appendix D**).

3.7 Sydney Opera House Management Plan 2005

Clause 288 of the EP&A Regulation requires consent authorities to consider the *Sydney Opera House Management Plan (2005)* (SOH Management Plan) when determining development applications on the SOH site.

Section 6 of the SOH Management Plan specifies that the provisions of *A Plan for the Conservation of the Sydney Opera House and its Site (Third Edition) 2003* (the CMP) and the *Jørn Utzon's Design Principles 2002* (Utzon's Design Principles), should be relied upon to determine the impact of a project on the heritage values of the site. The CMP and Utzon's Design Principles are guiding policy documents for the on-going conservation and management of proposals to change the SOH.

The Department has considered the relevant provisions of these documents in its assessment of the proposal in **Section 5.2** of this report. The Department's assessment concludes the modified proposal would continue to generally comply with the relevant provisions of the SOH Management Plan, the CMP and the Utzon's Design Principles.

3.8 Environmental Planning Instruments

Detailed consideration of the provisions of all Environmental Planning Instruments (EPIs) that apply to the proposed development is provided in **Appendix C** of this report. The Department is satisfied the proposed development complies with the relevant provisions of these EPIs.

Consideration has also been given to the relevant clauses of the Sydney Harbour Waterways Development Control Plan (DCP) in **Appendix C**.

4. CONSULTATION AND SUBMISSIONS

4.1 Notification

In accordance with section 75X(2)(f) of the EP&A Act, the modification application and accompanying information was made publicly available in accordance with the EP&A Regulation (**Table 3**).

Table 3: Exhibition details

Exhibition/Notification	Format	Dates
Publicly Exhibited	The Department's Bridge Street office, the City of Sydney Council's One Stop Shop and on the Department's website	10 August 2016 to 24 August 2016
Newspaper Notice	Central Sydney Courier	10 August 2016
Written Notices	Surrounding landowners, key agencies and the City of Sydney Council.	8 August 2016

4.2 Submissions

The Department received a total of eight submissions, including five from public authorities and three public submissions.

All three public submissions objected to the proposed modification.

4.2.1 Public authority submissions

Table 4: Public authority submissions on the proposed modification

City of Sydney Council (Council)
Council did not object to the proposed modification and advised: - the Department should request further clarification on the proposed noise limits as they may be too intrusive for residential receivers; - an amended Plan of Management should be prepared for the site demonstrating a strong commitment to management of potential impacts on surrounding receivers and the public domain; and - traffic impacts arising from the modification would be minimal. Council recommended its standard noise conditions (including noise limits, monitoring and management requirements) as well as updated conditions for the set up and operation of food stalls.
Office of Environment and Heritage (Heritage Office)
The Heritage Office advised: - the proposed infrastructure required for the 'The Opera' event is considered acceptable in this instance as a one-off event only; and - a repeat of such events requiring the same level of infrastructure in the forecourt for extended periods is considered to have an unacceptable impact on the setting and the overall significance of the SOH. Despite the above concerns, the Heritage Office nevertheless recommended conditions of approval relating to erection of temporary structures, site protection and works, nomination of a heritage consultant, the need for further approval from the Heritage Council under the <i>Heritage Act 1977</i> for the final number and duration of events and for the approval under the <i>Heritage Act 1977</i> to be reviewed every five years. On review of the Response to Submissions (RTS), the Heritage Office concluded its recommended conditions would remain unchanged.

Environment Protection Authority (EPA)
The EPA did not object to the proposed modification and advised: • it accepts the proposed changes to the noise limits and monitoring methods; • only bump-out should occur between the hours of 11 pm and midnight except in the case of amplification equipment required for safety reasons; and • noise monitoring reports should be prepared after each event and shall be accompanied by a complaints register. On review of the RTS, the EPA accepted the adoption of Front of House (FOH) noise limits as reasonable alternative approach to noise management, subject to the submission of noise monitoring reports for each event and periodic review of the effectiveness of the limits.
Transport for NSW (TNSW)
TNSW did not object to the proposed modification and advised: • it has no issues with the proposed modification; • the Proponent should encourage patrons to use of public transport when attending events and functions in its advertising materials; • the Proponent should schedule start and finish times for bump-in and bump-out outside commuter peak periods; and • the Proponent should consult with its CBD Coordination Office regarding the above issues.
Roads and Maritime Services (RMS)
RMS did not object to the proposed modification or raise any issues of concern.

4.2.2 Public submissions

The three public submissions raised the following concerns:

- excessive noise generation, particularly in relation to the proposed extended hours for bump-out activities;
- impacts on the heritage values of the site;
- the visual appearance of the forecourt during events;
- impacts from event lighting on nearby residents;
- the need for adequate security including management of anti-social behaviour, alcohol consumption and potential terrorism events;
- pedestrian and traffic congestion during events;
- inadequate community consultation from the Proponent, prior to lodgement of the application; and
- non-compliance by the Proponent with existing development consents for the site.

4.3 Response to Submissions

The Proponent submitted a RTS on 13 September 2016. The RTS includes a comprehensive response all issues raised in submissions which are given detailed consideration in **Section 5** of this report.

The only change to the proposed modifications in the RTS relates to the application of FOH noise limits (as opposed to receiver-based noise limits proposed in the original application) to improve noise management during outdoor events. The RTS includes an amended Acoustic Assessment report.

Given the proposed changes relate to noise, and the EPA is the appropriate regulator of outdoor entertainment at the SOH, the RTS was referred to the EPA for further comment (**Table 4**).

One additional public submission was received after the lodgement of the RTS reiterating issues already raised. The Department is therefore satisfied the issues have been satisfactorily addressed in the RTS and the Department's assessment in **Section 5** of this report.

5. ASSESSMENT

The Department has considered the application, the issues raised in submissions and the Applicant's RTS in its assessment of the proposal and considers the key assessment issues to be:

- re-allocation of events;
- heritage;
- noise;
- light spill; and
- transport and access.

The Department's assessment of all other issues that were taken into consideration in the assessment of the application is provided in **Section 5.6**.

5.1 Re-allocation of Events

The modification seeks permanent on-going use of the site for holding temporary outdoor events and functions on the Southern Forecourt, Monumental Steps and Western Broadwalk. The modification also seeks to re-allocate the number and durations of events and functions currently permitted. The proposed changes are summarised in **Table 5** below.

Table 5: Approved and proposed maximum number of events and functions (Condition 5)

	Max. No. of Events	Max. No. of Functions	Max. Days Per Event/Function	Max. Days Per Year
DA 445-10-2003	4 High Impact	4 High Impact	7 for events and 7 for functions	48
MOD 6-1-2005*	26 (12 Low, 9 Medium and 5 High Impact)	6 High Impact	11 for events and 7 for functions	127
Proposed	8**		3 x 20 day and 5 x 11 day 1 x 25 day (2016 only)**	99

Note: * MOD 90-12-2007 and MOD 52-6-2008 did not alter Condition 5.

** The modification proposes a combined total of 8 events and functions in a typical calendar year under a single 99 day cap. However, 9 events and functions are proposed in the next calendar year only when counting the extra one-off 25 day event in 2016.

Events would mainly be for live amplified music performances, require more significant infrastructure (e.g. stages, lighting towers) and cater to larger crowds. Functions would be smaller for corporate/private gatherings, require less infrastructure (e.g. marquee tents, seating) and may involve live music performances but on a smaller scale.

No change is proposed to Condition 6 of the existing consent which limits the maximum patronage of events to 6,000 persons and functions to 2,000 persons.

Although the duration of some events would increase (up to 20 days for three events), events and functions would be less frequent for less total days per year than previously approved. The proposed modification would result in:

- 8 events and functions per year, compared to a previously approved maximum of 32; and
- 99 days for events and functions per year, compared to a previously approved maximum of 127.

The Department notes past outdoor events have complied with the existing conditions of consent for hours of operation, public access, outdoor lighting, noise control and erection of temporary structures which mitigate potential environmental impacts. Past outdoor events have also been subject to a successful trial period (DA 319-9-2003) and the time limit in the

subject consent (DA 445-20-2003) has been extended on two occasions in 2007 and 2008 considering past environmental performance (**Section 1.3**).

Moreover, the proposed modification does not seek to increase the environmental parameters of the existing consent in relation to patron capacity, hours of operation for amplified music, visual impacts, lighting, public access, traffic or required infrastructure.

The Department's assessment concludes the proposed modification would not result in increased impacts on the environment or the amenity of adjoining residents. The proposed re-allocation of events, the deletion of Condition 3 and the permanent on-going use of the site for holding temporary outdoor events and functions is therefore supported.

5.2 Heritage

The SOH site has local, State, National and World Heritage significance and careful consideration must therefore be given to the impact of the proposed modification on this significance. This was an issue of concern raised in public submissions.

The key potential heritage issues associated with the proposal relate to the placement of temporary event infrastructure (stages, lighting towers etc) in the forecourt. This could adversely impact on the heritage significance and setting of the SOH, visitor experience and access to the forecourt during events.

The potential heritage impacts associated with holding general events and one-off events 'The Opera' are discussed separately in **Section 5.2.1** and **Section 5.2.2** below.

5.2.1 General events

The SOH building has significance as a monumental sculpture in a picturesque setting with public spaces which are enhanced by vistas to the harbour and the city. The Department has considered the SOH's statement of significance, the relevant provisions of the SOH Management Plan, the CMP (particularly Policies 2.1 to 2.2 and 3.1 to 3.5) and Utzon's Design Principles in its assessment of the proposal. The key provisions of these documents as they apply to the proposal primarily relate to the preservation of the setting of the site including views to the SOH, an open and uncluttered forecourt.

The CMP acknowledges from time to time, provision has been made for outdoor performances or celebrations in the forecourt. The CMP states while visually intrusive and dislocating, their brief duration and infrequent occurrence make them tolerable, particularly where substantial synergy exists with community objectives. Policy 3.4 generally states frequent or long stay event infrastructure which adversely impacts on the setting of the SOH and public access to the forecourt is unacceptable. However, the CMP states ultimately it will be the responsibility of the Proponent to negotiate with NSW Government planning and heritage bodies to determine what is acceptable.

The Heritage Impact Statement (HIS) for general outdoor events concludes the proposal supports the world heritage values of the SOH, promotes excellence in performing arts and attracts audiences who may not normally attend performances, broadening public appreciation of the site.

The HIS found the potential for increased impacts arising from the proposed modification relate to the placement of event infrastructure in the forecourt (up to 20 days for three events) which could negatively impact on public perception/visitor experience in terms of the setting of the SOH and access to the forecourt during events.

To mitigate these impacts, the Proponent has prepared a set of draft *Sydney Opera House Outdoor Events Heritage Guidelines* (Heritage Guidelines) to control the location, scale, colour and design quality of event infrastructure. The guidelines include measures to ensure:

- all event infrastructure be designed to minimise intrusion into primary view lines and to maximise public access to the forecourt;
- all structures be covered in screening material with appropriate graphics or artwork that reduces visual impacts and does not detract or compete with the SOH;
- no infrastructure be highly reflective, white or off-white and of a colour that does not compete with the shells or podium of the SOH;
- visually intrusive items and those that inhibit public access be in place for the least time possible (i.e. installed late and removed early); and
- all event infrastructure and installation, including fencing and signage, be of high quality design and execution that does not detract from the setting of the SOH.

The Heritage Guidelines also include a regime of strategically thought-out event free periods (i.e. block of days) proposed throughout each year to minimise impacts on public perception/visitor experience.

The development (DA 445-10-2003) as modified, was previously assessed as complying with the relevant provisions of the CMP and Utzon's Design Principles. The proposed modification results in less frequent events and functions for less total days per year than previously approved (**Section 5.1**). The Department is therefore satisfied views to the SOH, its setting, public access to, and views across the forecourt would be improved as a result of the proposed modification.

To mitigate any residual impacts (including the potential for negative public perception regarding longer duration events), the Department has recommended conditions requiring the Proponent to finalise its Heritage Guidelines (and associated regime of event-free periods) in consultation with the Heritage Office and prepare Event Management Plans for all future events consistent with the latest version of the guidelines (**Section 5.6.1**).

The Heritage Office recommended conditions of consent relating to erection of temporary structures (i.e. consistent with the above measures), site protection and works and nomination of a heritage consultant. The Department supports these recommendations and has incorporated these conditions into the modified consent.

The Heritage Office also recommended conditions noting the Proponent's obligation to obtain separate approval from the Heritage Council for the final number and duration of events under the *Heritage Act 1977*, and for this approval to be reviewed every five years. To ensure these obligations are clear to the Proponent, the Department has recommended an Advisory Note in this regard. Council did not raise any concerns in relation to heritage.

With recommended conditions in place, the Department's assessment concludes the modified proposal would not adversely impact on the heritage significance of the SOH and would continue to comply with the relevant provisions of the SOH Management Plan, the CMP and Utzon's Design Principles. Importantly, event infrastructure would be in the forecourt less often, would be designed and sited to be less visually intrusive, would continue to be temporary in nature and erected and dismantled without damaging or altering the original fabric of the SOH.

In supporting the application, the Department acknowledges the SOH forecourt has been used for public events and performances for over 40 years. The Department recognises the communal value of continuing such events which have been the focus of some of the most important outdoor performances in Australia's recent history, supporting the world heritage values of the SOH, and broadening appreciation of the site amongst the wider public.

5.2.2 One-Off Event (2016)

The Sydney Opera House 'The Opera' is a one-off performing arts event proposed over a 25 day period with bump-in commencing on 17 October 2016. Rehearsals would be held from 22 October 2016 to 27 October 2016, followed by five performances from 28 October 2016 to 5 November 2016 and bump-out thereafter. Seating for 3,000 persons would be located on the Southern Forecourt facing a stage on the Monumental Steps with 12 m high lighting towers where performances would take place. Other key infrastructure proposed includes a wall of 9 containers (stacked two high – total 18) on the western side of the forecourt and a 12 m high FOH tower in the forecourt near the Tarpeian Way Stairs (**Figure 2**).

The HIS for 'The Opera' concluded while the one-off event would have substantial impacts to the setting of the SOH and public access to the site, the impacts would be temporary and acceptable given the nature and purpose of the event proposed. The HIS recommended 'The Opera' event be approved as a one-off event only.

The Heritage Office advised 'The Opera' would be acceptable as a one-off event only, although considered a repeat of events requiring the same level of infrastructure in the forecourt for extended periods would have an unacceptable impact on the setting and the overall significance of the SOH. Council did not raise any concerns in relation to 'The Opera' event.

The Department is satisfied the one-off temporary event for 'The Opera' is reasonable and acceptable, particularly given the purpose of the event is to celebrate the design and realisation of the SOH, including its universal heritage values. To minimise potential heritage impacts, the Department has recommended conditions requiring 'The Opera' to be undertaken as a one-off 25 day event in 2016 only, in accordance with the Proponent's draft Heritage Guidelines and all mitigation measures outlined in the HIS.

5.3 Noise

The holding of temporary outdoor events at the SOH site has the potential to result in adverse noise impacts to nearby sensitive receivers. The closest residents are located in a mixed-use residential apartment building (Bennelong Apartments) which connects to the southern boundary of the site (**Figure 1** and **Figure 3**). The Department has therefore carefully considered potential noise impacts of the proposed modification to nearby residents.

The potential noise impacts associated with holding general events and 'The Opera' are discussed separately in **Section 5.3.1** and **Section 5.3.2** below.



Figure 3: Nearby sensitive noise receivers (Source: Google Earth)

5.3.1 General events

The Department's assessment of the new noise limits and associated monitoring, the proposed reallocation of events and the extra hour of operation for bump-out is provided below.

Front-of-house noise limits

The Proponent's Acoustic Assessment (AA) undertook a review of noise data collected from past outdoor events to determine how successfully the existing amplified noise limits in the consent have been applied based on historical monitoring and complaints received. The review found the existing receiver based noise limits are within 1 to 10 dB above existing background levels at the Bennelong Apartments (**Figure 3**). During monitoring, this makes it difficult to distinguish between event noise and background noise (ferries, trains, restaurants, pedestrians etc) which affects the ability to determine compliance with the existing noise limits. The existing dB(A) noise criteria is also up to 20 dB lower than the dB(C) criteria (**Table 7**). This is unrepresentative of the various genres of music performed and often results in sound engineers using excessive low frequency noise/bass (as represented by the dB(C) criteria) to compensate for overly stringent limits on high frequency noise (as represented by the dB(A) criteria).

To resolve this, the Proponent is proposing an alternative approach to noise management by adopting FOH noise limits for five potential stage and FOH configurations (**Table 6**). For the majority of events, the stage would be located at the southern extent of the forecourt adjoining the Tarpeian Way wall facing the Monumental Steps (**Figure 4** and **Figure 5**).

FOH noise levels are controlled and monitored at the source (i.e. the mixing desk) by a sound engineer. The FOH is a location where subjective assessment of speaker performance and audience experience can be made. The FOH position is generally located in front of the stage. FOH levels are considered source noise levels which reduce with distance. The FOH location for typical forecourt events is illustrated in **Figure 4** and **Figure 5** below.

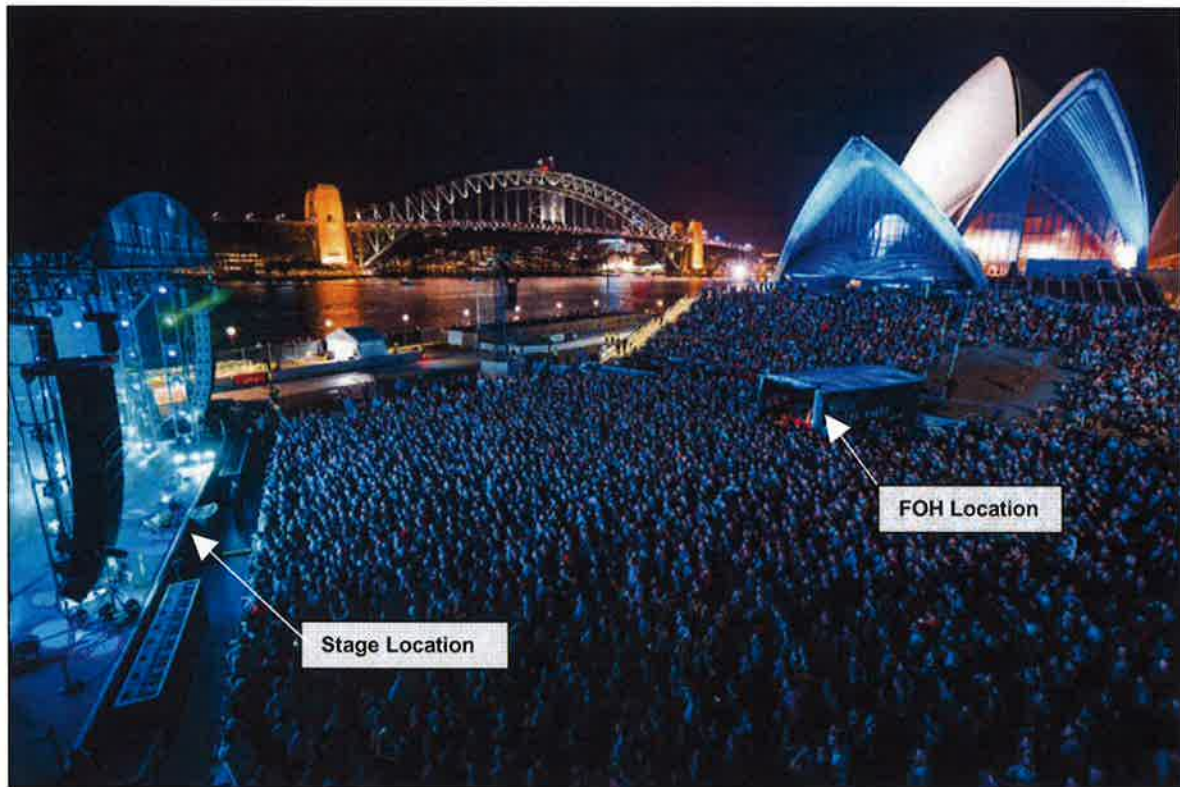


Figure 4: Photo of Sydney Opera House Forecourt Event (Source: EA)

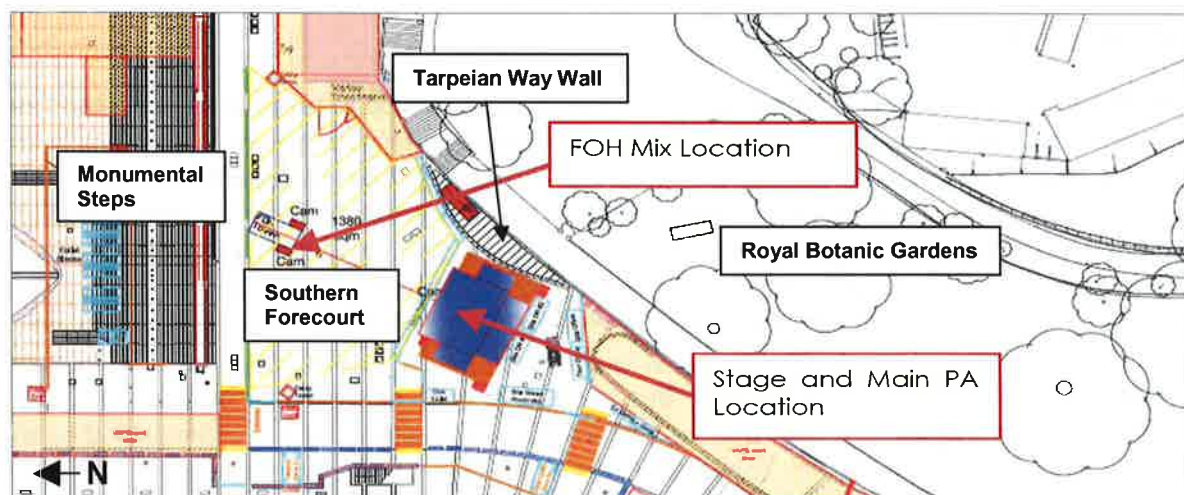


Figure 5: Typical stage and FOH configuration (Source: EA)

As shown in **Table 7**, the existing noise criteria in the consent are different for weekdays and weekends based on the premise that background noise levels during the week are lower. The proposed FOH limits have been calculated to approximate the noise outcomes achieved under the existing consent criteria at the Bennelong Apartments (**Table 7**) and it is also proposed to apply the same noise limits to events and functions for all days of the week. A

noise limit of 5 dB higher is proposed for events held on the Western Broadwalk which finish prior to 10 pm.

Table 6: SOH proposed FOH noise limits (10 am to 11 pm)

Stage and FOH Configuration	Event	Leq (5 minute) dB (A)	Leq (5 minute) dB (C)	If music finishes by 10 pm
As shown in Figure 4	Typical Forecourt Event	96	102	N/A
Western edge of forecourt	Australia Day	92	98	N/A
On Monumental Steps	'The Opera' (one-off event)	82	90	N/A
Northern end of broadwalk	Western Broadwalk A	90	100	5 dB increase
Southern end of broadwalk	Western Broadwalk B	85	95	

Table 7: Existing noise limits at the Bennelong Apartments and SOH proposed FOH noise limits

	Sunday to Thursday	Friday to Saturday
Existing until 11 pm*	L _{Amax} 65 dB(A) and L _{Cmax} 85 dB(C)	L _{Amax} 70 dB(A) and L _{Cmax} 90 dB(C)
Proposed	All days until 11 pm	
	FOH dB(C) levels equivalent to the L _{Cmax} 90 dB(C)	
	If music finishes by 10 pm on the Western Broadwalk	
	5 dB increase - FOH dB(C) levels equivalent to the L _{Cmax} 95 dB(C)	

Note: *Amplified noise is permitted until 12 midnight for corporate functions in the existing consent.

The setting of FOH noise limits is consistent with the approach successfully implemented by Brisbane City Council at its Riverstage Venue (which has many similar attributes to the SOH forecourt). This approach is considered to represent current best practice for event noise management in urban environments noting there is currently no formal policy for the regulation of event noise in NSW.

The Department recognises the existing receiver based noise limits have not been successful in the past due to background noise contamination and a differential which results in bass-heavy sound. The Department has considered the options for management of noise at the SOH in close consultation with the EPA, Brisbane City Council and the Proponent. The Department's assessment concludes for outdoor events in an urban setting with a single stage it is preferable to set FOH limits for a limited number of stage configurations instead of receiver based limits.

The Department considers setting the proposed FOH noise limits would have the following key benefits:

- allows for more accurate identification of noise at the source which can be confidently attributed to the event (i.e. no issues with background noise contamination);
- provides regulatory certainty as FOH levels can be used to calculate noise levels at the nearest residents, therefore compliance with the FOH limits would ensure receiver levels are also acceptable;
- allows for continuous real-time monitoring of FOH noise levels by a sound engineer;
- reflects a balanced acoustic spectrum reducing reliance on bass-heavy sound which is known to be the main cause of community complaints;
- allows for proactive management of potential exceedences and quicker corrective action response to noise complaints; and

- provides an auditable log of noise data post-event reducing compliance burden.

The Department is also satisfied the application of one noise limit for all days of the week is acceptable as it allows a simpler approach to noise management and the lower weekday noise limits in the existing consent (**Table 7**) are not considered to be justified given weekday background noise levels are not significantly different to weekends noise levels. Further, the proposed FOH limits have been calculated to approximate the noise outcomes achieved under the existing consent criteria. The Department therefore supports the proposed FOH limits, however recommends the proposed dB(A) levels be set 10 dB lower than the dB(C) levels presented in **Table 6**. This is consistent with the differential figure used by BCC and is considered to be more representative of a range music genres. The Department's recommended FOH noise limits are presented in **Table 8** below.

Table 8: Department recommended FOH noise limits (10 am to 11 pm)

Stage and FOH Configuration	Event	Leq (5 minute) dB (A)	Leq (5 minute) dB (C)	If music finishes by 10 pm
As shown in Figure 4	Typical Forecourt Event	92	102	5 dB increase
Western edge of forecourt	Australia Day	88	98	
On Monumental Steps	'The Opera'	80	90	
Northern end of broadwalk	Western Broadwalk A	90	100	N/A
Southern end of broadwalk	Western Broadwalk B	85	95	N/A

SOH proposes FOH noise levels up to 5 dB higher for events held on the Western Broadwalk, subject to a 10 pm finishing time (**Table 6**). The Department accepts for some events (e.g. rock concerts) FOH noise levels up to 5 dB higher may be required to provide acceptable patron experience. However, in analysing and determining the appropriate FOH levels, the Department's assessment concludes the proposed levels in **Table 6** may not provide a satisfactory patron experience for rock/dance type music performances undertaken in the Southern Forecourt or on the Monumental Steps. This is because these performances may need to be louder given the inherent nature of the performance and a larger audience size. As such, the Department considers the potential for a 5 dB increase should be applied to events held in the Southern Forecourt or on the Monumental Steps rather than the Western Broadwalk as shown in **Table 8**.

In these instances, the Department considers performances held in the Southern Forecourt or on the Monumental Steps should be restricted to a total duration of not more than 4 hours on any given day with all amplified music to cease by 10 pm. This would give the Proponent flexibility to adapt event noise to different music genres for these events and increase noise slightly on occasion where patron experience is found to be unacceptably low. By restricting the noise dose to 4 hours and requiring a shorter event duration, the Department is satisfied a 5 dB increase would not compromise the amenity of adjoining residents. This is because slightly louder music is more likely to have an acceptable impact when considering it is for a limited duration and will finish by 10 pm rather than 11 pm at which time people are more sensitive to noise.

The EPA has accepted the adoption of FOH noise limits as reasonable alternative approach to noise management, subject to submission of noise monitoring reports for each event and

periodic (1 and 3 year) review of the effectiveness of the limits. The Department agrees and has incorporated the EPA's requirements into the recommended conditions, along with additional requirements for the Proponent to:

- comply with the proposed FOH noise limits and hours of operation for amplified music;
- restrict noisier performances to not more than 4 hours and a 10 pm finishing time;
- prepare an Overarching Noise Management Plan (NMP) in consultation with the EPA which includes:
 - a suitable real-time noise monitoring program;
 - a suitable community complaints management system;
 - an early warning system and procedure for corrective action, prior to exceedences of the noise limits; and
 - a program of continuous improvement for noise management.
- engage an expert to prepare tailored NMPs for all future events certifying the stage and FOH configuration and proposed noise controls to achieve the noise limits; and
- undertake noise attenuation works to the satisfaction of the Secretary in the event of significant community complaints or identified exceedences of the noise limits.

Through the implementation of the requirements above, the Department is confident the proposed FOH noise limits provide an appropriate balance between achieving an acceptable level of patron experience and protecting the amenity of adjoining residents. The Department's assessment therefore concludes the new noise limits would allow for the improved monitoring and management of noise for future events.

Re-allocation of events

The Department has reviewed the AA in detail and is satisfied the proposed reallocation of events number and durations (**Section 5.1**) would not result in adverse noise impacts to adjoining residents as:

- events and functions would be less frequent for less total days per year than previously approved;
- the use would continue to be temporary and would be limited to a total of 8 events per year;
- the proposed modification does not seek to increase patron capacity or hours of operation for amplified music;
- the number of days per event does not necessarily correlate to amplified music performances (e.g. a 20 day event is likely to have between 6 and 10 performances);
- not all events would be high impact noise events, such as Greek National Day which is a community event; and
- the new FOH noise limits and modified noise conditions would allow for the improved monitoring and management of noise for future events.

Hours of operation

A number of public submissions raised concern about the extra hour of operation proposed from 11 pm to 12 midnight for bump-out.

Noise from trucks moving to and from the site on Macquarie Street during bump-out would generate the highest noise levels. The AA found noise from these vehicles would comply with the relevant Industrial Noise Policy (INP) night-time criteria of background plus 5 dBA at the Bennelong Apartments. The AA found (assuming a conservative 25 dBA attenuation through the façade of the Bennelong Apartments), the internal noise levels would also readily comply with the relevant INP sleep disturbance criteria of background plus 15 dBA.

As shown in **Table 7** the existing consent already permits amplified sound until 12 midnight on Fridays and Saturdays for corporate functions (6 per year) at levels much higher than the abovementioned criteria.

The Department is satisfied the extra hour for bump-out activities would result in no discernible increase in noise levels at nearby residents. The extra hour for bump-out would also allow more event infrastructure (e.g. stage trucks) to be cleared from the forecourt at night, thereby reducing heritage and visitor experience impacts the following day during peak tourist times. The Department recommends night-time noise limits for bump-out (and temporary noise generating equipment) in the modified consent.

5.3.2 One-Off event (2016)

'The Opera' event involves five performances undertaken over a 25 day period. Seating for 3,000 persons would be located on the Southern Forecourt facing a stage on the Monumental Steps where performances would take place. Gates would open at 5 pm with performances scheduled to start at 7.30 pm and finish at 10.15 pm. Bump-in and bump-out would occur from 8 am to 11 pm and event patronage would be limited to a maximum of 6,000 persons as per the existing conditions of consent.

Orchestral sound for the performance would be broadcast live from a studio located inside the SOH to receivers and headphones worn by patrons in the forecourt for a 'silent' experience. Performers on stage in the forecourt would sing into microphones and this sound would also be broadcast to patron headphones. The only amplified outdoor sound would be from intermittent PA system used pre-performance, during intervals and post-performance. Speaker systems would be pointed away from the audience towards the SOH to minimise potential noise impacts on nearby residents. The concept also allows performance noise to be fully controlled by a sound engineer inside the SOH studio (without competing with background harbour noise) and transmitted to audience members who individually control volume levels through their own headsets.

The Acoustic Impact Report for 'The Opera' concluded the noise from this event would be far quieter than traditional live music events previously held, as the 'silent' approach does not rely on amplified music or amplified voices outdoors. Noise levels would also be monitored throughout the performance and rectification action initiated should the levels be approaching the consent limits or a complaint received.

Both the EPA and Council did not raise any issues of concern in relation to the potential noise impacts of the one-off 25 day event.

Given the above, the Department is satisfied noise from the one-off 25 day event would be minimal and can be effectively managed in accordance with the existing and modified (as outlined above) conditions of consent.

5.4 Light Spill

The holding of temporary outdoor events and functions at the SOH site has the potential to result in light spill causing nuisance to nearby residents. This was an issue of concern raised in submissions.

The potential light spill impacts associated with holding general events and 'The Opera' are discussed separately below.

5.4.1 General events

During events, required outdoor lighting ranges from subtle lighting for community/arts events to high intensity strobe lighting for music festivals and rock-and-roll concerts.

The existing consent includes conditions to mitigate potential light spill from events and functions including requirements for the Proponent to ensure all outdoor lighting complies with the relevant Australian Standards and does not have an adverse impact on the surrounding areas of the site.

The Department has reviewed the application and supporting documents in detail and is satisfied the modified development is unlikely to result in increased impacts from light spill as:

- the application does not seek to increase the environmental parameters of the existing consent in relation to lighting;
- the application proposes less events and less total event days per year than previously approved;
- the events and associated light spill impacts would be temporary for restricted durations and hours of operation;
- the Proponent has committed to ensuring the lighting design of all future events and functions complies with the existing lighting conditions; and
- event and function lighting is likely to be indistinguishable from the existing levels of background illumination in and around Circular Quay.

Notwithstanding this, the Department has recommended additional conditions to address concerns raised in public submissions and to ensure potential light spill impacts are minimised as much as possible. These conditions would require the Proponent to ensure an engineer sets up the lighting for all events, retain ultimate control of lighting (including in response to complaints received) and prepare tailored Event Management Plans (EMPs) for all future events which address lighting management.

With these conditions in place, the Department is satisfied potential impacts from light spill would be effectively managed so they do not adversely impact nearby sensitive receivers.

5.4.2 One-off event (2016)

The Proponent conducted a Lighting Impact Assessment (LIA) to determine the impact of lighting associated with the 'The Opera' on the Southern Forecourt and Monumental Steps. The Department is satisfied the holding of a one-off event is unlikely to result in any adverse impacts from light spill on nearby sensitive receivers, as lighting would be of a theatrical nature controlled by a professional lighting designer and directed towards the stage (away from nearby residents). The operation of the event would also be subject to the recommended conditions outlined for general events.

5.5 Transport and Access

The holding of outdoor events and functions at the SOH site has the potential to result in pedestrian and traffic congestion. This was an issue of concern raised in public submissions.

The application includes a Transport Assessment (TA) to address the potential transport and access impacts of the proposal. The TA found the transport and access impacts arising from the proposed modification would be minimal because:

- most people would arrive to the site on foot using the key pedestrian accesses from East Circular Quay, Macquarie Street and the Royal Botanical Gardens gate (**Figure 2**). The recently completed SOH Vehicle and Pedestrian Safety Project (MP 09_0200)

significantly improved pedestrian and traffic safety and management for outdoor events on the forecourt (**Section 1.3**);

- the SOH site benefits from its location adjacent to Circular Quay which is a major public transport hub offering bus, train and ferry services to a broad range of destinations throughout Sydney;
- the Sydney Light Rail Project is scheduled for completion in 2019 which would connect Circular Quay to Central Station, Surry Hills, Randwick and Kingsford, further improving access to public transport at the SOH site;
- there is limited public parking available surrounding the SOH site meaning most patrons use public transport or walk to events;
- the application does not seek to increase the size/patron capacity of events and functions previously held at the SOH site and therefore would not result additional pressures to the adjacent transport network; and
- large events at the SOH do not result in unsatisfactory operation of the road network immediately surrounding the site.

During major events such as New Year's Eve, the northern end of Macquarie Street would be closed to vehicular traffic to restrict vehicle access and increase pedestrian flow capacities along this route. Access for emergency vehicles would be retained.

TNSW, Council and RMS did not raise any issues of concern in relation to transport or access. TNSW confirmed construction of the Sydney Light Rail Project has commenced and recommended simple measures to minimising traffic impacts during events (**Section 4.2.1**). To ensure potential transport and access impacts are minimised as much as possible, the Department has incorporated the requirement for the Proponent to update its outdoor event guide in consultation with TNSW and Council and prepare tailored EMPs for all future events which address transport and pedestrian access management.

The Department is satisfied the modified development would not result in increased transport and access impacts. The Department is also satisfied the implementation of tailored EMPs would ensure potential transport and access impacts are better managed during future events and functions.

5.6 Other Issues

5.6.1 Event management

Public submissions raised concern for the need to effectively manage patron behaviour, patron egress, security, and emergency evacuation/incident response and alcohol consumption during events. Council also requested a Plan of Management be prepared to minimise impacts on surrounding receivers and the public domain.

The existing consent requires the Proponent to limit patron capacity and ensure appropriate safety and security measures are implemented during events and functions. However, there is no formal requirement for event/function management plans.

In response to community concerns, the Proponent has committed to updating its *Sydney Opera House Outdoor Event Guide (September 2015)* providing detailed guidance on the management of outdoor events at the site (patron behaviour, security, responsible service of alcohol etc), in consultation with key stakeholders. The Proponent has advised its Precinct Response Team (PRT), in conjunction with the SOH security team, provide significant additional security presence for events and is responsible for orderly egress of patrons, *Liquor Act 2007* compliance and timely response to potential emergency/security threats. The Proponent has advised the proactive management of patrons during existing events

through the PRT generally results in the forecourt and surrounds cleared of people within 15 minutes following the end of an event.

To formalise the Proponent's commitment, the Department has recommended a condition requiring the Proponent to finalise an updated version of the guide in consultation with Council, NSW Police, TNSW, the Heritage Division and the EPA. The Department has also recommended additional conditions requiring the Proponent to prepare tailored EMPs for all future events.

The EMPs must be consistent with the final version of the *Sydney Opera House Outdoor Event Guide* and would address management of security, emergency evacuation and incident response, alcohol and food consumption, occupational health and safety, infrastructure and services, lighting, operational waste, community consultation and complaints management.

The Department is confident the above measures would provide a suitable overarching framework for the improved management of future outdoor events at the site and those issues raised in public submissions.

6. CONCLUSION

The Department has assessed the modification application in accordance with the relevant requirements of the EP&A Act. The Department's assessment concludes the proposed modification would:

- not result in increased impacts on the environment or the amenity adjoining residents;
- not adversely impact on the heritage significance of the SOH;
- allow for the improved management of noise for future outdoor events and functions;
- provide certainty and flexibility for the Proponent regarding the permanent on-going use of the site for holding a greater range of temporary outdoor events and functions; and
- provide a formal overarching framework for the improved management of outdoor events and functions at the site.

In supporting the application, the Department acknowledges the forecourt has been used for public events and performances for over 40 years. The Department recognises the communal value of continuing such events which have been the focus of some of the most important outdoor performances in Australia's recent history, supporting the world heritage values of the SOH, and broadening appreciation of the site amongst the wider public.

Consequently, the Department's assessment concludes the modification application is in the public interest and should be approved, subject to conditions.

7. RECOMMENDATION

It is recommended that the Executive Director, Key Sites and Industry Assessments:

- (a) **consider** the findings and recommendations of this report;
- (b) **determine** that the proposed modification falls within the scope of section 75W of the EP&A Act;
- (c) **approve** the modification under section 75W of the EP&A Act; and
- (d) **sign** the attached Instrument of Modification.

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Endorsed by:



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APPENDIX A – ENVIRONMENTAL ASSESSMENT

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7883

APPENDIX B – SUBMISSIONS

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7883

APPENDIX C – RESPONSE TO SUBMISSIONS

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7883

APPENDIX D – ENVIRONMENTAL PLANNING INSTRUMENTS

The following EPIs apply to the carrying out of the proposal:

- *State Environmental Planning Policy (State and Regional Development) 2011* (SRD SEPP);
- *State Environmental Planning Policy (State Significant Precincts SEPP) 2005* (SSP SEPP);
- *State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005* (SREP); and
- *Sydney Local Environmental Plan 2012* (Sydney LEP).

Detailed consideration of the relevant provisions of these EPIs that apply to the proposed development is provided below.

State Environmental Planning Policy (State and Regional Development) 2011

The aims of this SEPP are to identify State significant development (SSD) and State significant infrastructure and to provide the necessary functions to joint regional planning panels to determine development applications.

Clause 1 of Schedule 2 of the SRD SEPP identifies all development on land identified as being within the SOH site as being SSD. However, the under clause 8J(8) of the EP&A Regulation, the Minister's consent (DA 445-10-2003) is taken to be an approval under Part 3A of the EP&A Act and can be modified by the Minister under section 75W of the EP&A Act.

The Department is satisfied the proposed modifications are within the scope of section 75W of the EP&A Act, and do not constitute a new SSD application.

State Environmental Planning Policy (State Significant Precincts) 2005 (MD SEPP)

The aims of the SSP SEPP are to facilitate the redevelopment of important sites for the benefit of the State and provide for the development of major sites for a public purpose.

Schedule 3 of the SSP SEPP outlines planning controls for consideration of various State Significant Sites. Part 1, Schedule 3 of the SSP SEPP identifies the SOH as a State Significant Site.

Part 1, Division 2 of Schedule 3 of the SSP SEPP outlines provisions for exempt development, including (but not limited to) the temporary use of public space for community events, the temporary use of public space for minimal impact events (subject to restricted hours of operation, a combined duration of not more than 40 days in any 12 month period, a maximum patronage of 5,000 persons, and noise limits at nearby sensitive receivers), the erection of temporary buildings and signage associated with minimal impact events.

The proposal seeks approval for the holding of temporary outdoor events in addition to those permitted under the exempt development provisions of the SSP SEPP. The Department's assessment concludes the holding of temporary outdoor events at the site would help support and celebrate the world heritage values of the SOH, attracting audiences who may not normally attend performances, thus broadening appreciation of the SOH amongst the wider public. The proposal is therefore considered to be consistent with the key aims of the SSP SEPP.

State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007

Consideration of the relevant clauses in SEPP (Miscellaneous Consent Provisions) 2007 are addressed in **Table 1** below.

Table 1: Consideration of SEPP (Miscellaneous Consent Provisions) 2007

SEPP 64	Criteria	Department Comment / Assessment	Complies
Part 1, clause 3 Aims, objectives	This policy aims to ensure suitable provision is made to ensure the safety of patrons and the protection of the environment in relation to temporary structures.	- Existing and modified conditions of consent require the Proponent to restrict the patron capacity of events, ensure the erection of temporary structures complies with the Building Code of Australia for patron safety and that they are appropriately designed. - Existing and modified conditions also encourage protection of the environment by regulating noise, lighting, waste management, public access, parking and transport etc.	YES
Part 2, clause 12 Matters for consideration	Before granting consent to temporary structures, the consent authority must consider the following: - Whether number of persons should be restricted. - Potential for adverse noise impacts. - Limitation on hours of operation - Parking impacts - Principles for minimising crime risk - Satisfactory location - Toilets - Whether it is located on land that comprises a State heritage item, an item of environmental heritage (Aboriginal objects etc) or is in a heritage conservation area or a place of significant Aboriginal significance. - Duration of consent - Conditions relating to dismantling or removal of structures.	- Existing and modified conditions of consent regulate event patronage, event duration/s, hours of operation, noise levels, parking, the erection of temporary structures, transport and public access impacts, heritage impacts, security and toilet provision. - The Department has also considered the impact of the proposal on heritage in Section 5.2 of this report.	YES

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

Consideration of the relevant clauses in SREP (Sydney Harbour Catchment) 2005 is addressed in **Table 2** below.

Table 2: Consideration of SREP (Sydney Harbour Catchment) 2005

SREP (Sydney Harbour Catchment) 2005	Criteria	Department Assessment	Comment /	Complies
Part 1, clause 3 (2)(c1)	- Land to which the plan applies. - Within the Sydney Harbour Catchment, particular provisions of this plan apply to the Sydney Opera House Buffer Zone, as shown on the Sydney Opera House Buffer Zone Map.	The proposed works are located within the SOH Buffer Zone as identified on the relevant map.		YES
Part 3, clause 17 Zoning W1 Maritime Waters	Land is divided into a number of zones as shown on the zoning map.	Although the W1 Maritime Waters zone is adjacent to the site, no works will be carried out in the zone.		N/A
Part 3, clause 20 Matters for Consideration	The matters referred to in Division 3 must be considered by the consent authority.	The Department has considered the relevant matters below.		YES
Part 3, clause 21 Biodiversity, ecology & environmental protection	The consent authority must take into consideration the matters listed in the clause in relation to biodiversity, ecology and environmental protection.	The proposal would have a negligible impact on biodiversity, ecology or the natural environment.		YES
Part 3, Clause 22 Public access to, and use of, foreshores and waterways	The consent authority must take into consideration the matters listed in this clause in relation to public access to, and use of, the foreshores and waterways.	- Public access along the foreshore would be maintained and public access to the waterway would not be affected. - Restrictions on public access to the forecourt during events would be temporary only.		YES
Part 3, Clause 23 Maintenance of a working harbour	The consent authority must take into consideration the matters listed in relation to the maintenance of a working harbour.	The proposal would not impact on the maintenance of a working harbour.		YES
Part 3, Clause 24 Interrelationship of waterway and foreshore uses	The consent authority must take into consideration the matters listed in this clause in relation to the interrelationship of waterway and foreshore uses.	The proposal does not include any opportunities for waterway access and would not impact on the use of the waterway.		NA
Part 3, Clause 25 Foreshore and waterways scenic quality	The consent authority must take into consideration the matters listed in relation	Impacts on the scenic quality of the foreshore and waterway would be		YES

	to the maintenance, protection and enhancement of the scenic quality of foreshores and waterways.	temporary for the duration of events only. Recommended conditions would ensure all event infrastructure is of high quality design and execution that protects the scenic quality of the foreshore and Sydney Harbour.	
Part 3, Clause 26 Maintenance, protection and enhancement of views	The consent authority must take into consideration the matters listed in relation to the maintenance, protection and enhancement of views.	- Impacts on views would be temporary for the duration of events only. - Recommended conditions would require all event infrastructure is sited to maintain and protect views to the site and surrounds.	YES
Part 3, clause 29 Foreshores & Waterways Development Advisory Committee	A consent authority must not grant consent to a DA unless it has referred and considered the views of the Advisory Committee.	The proposed development is of a type that does not require referral to the Advisory Committee.	N/A
Part 4, clause 40 Strategic Foreshores Areas	- Division 1 - Requirements for Masterplans. - This Division applies to development that is carried out on a strategic foreshore site.	The SOH site identified as a strategic foreshore site on Sheet 3 (City Foreshore Area).	YES
Part 5 Division 3A Sydney Opera House	- Clause 58A outlines this division applies to the Sydney Opera House buffer zone, as outlined on the Sydney Opera House Buffer Zone Map. - Clause 58B outlines matters taken into consideration for development in the Sydney Opera House buffer zone to protect the World Heritage Value of the site. - Clause 58C outlines parameters for minor development in which this division does not apply.	- The Department's assessment in Section 5.2 of this report concluded the modified proposal would not adversely impact on the world heritage significance of the SOH. - Recommended conditions requiring the preparation of final Heritage Guidelines in consultation with the Heritage Division would ensure event infrastructure is sited to preserve vistas between the SOH and other public spaces in the buffer zone and to avoid intrusion into the visual prominence of the SOH when viewed from public spaces in the buffer zone.	YES

Sydney Local Environmental Plan 2012

Under the Sydney LEP the site is zoned B8 Metropolitan Centre. The objective of the zone is to provide business, office, retail, entertainment and tourist premises. Consideration of the relevant controls contained within the SLEP is provided below in **Table 3**.

Table 3: Sydney LEP Compliance Table

City of Sydney LEP 2012	Objectives	Department Assessment	Comment/	Yes/No
Clause 5.10 Heritage Conservation	Conserve environmental heritage, heritage items, archaeological sites, Aboriginal objects and places of significance.	- The Department has assessed the heritage impacts of the proposal in Section 5.2 of this report. - The Department's assessment concluded the modified proposal would not adversely impact on the heritage significance of the SOH and would continue to comply with the relevant provisions of the SOH Management Plan, the CMP and the Utzon's Design Principles.		Yes
Clause 6.21 Design Excellence	Development consent must not be granted unless consent authority considers the development exhibits design excellence.	Recommended conditions requiring the preparation of final Heritage Guidelines in consultation with the Heritage Division would ensure event infrastructure does not detrimentally impacts on views and is of a high quality design and execution that is sensitive to the heritage values of the SOH and the surrounding public domain.		Yes
Clause 7.11 Foreshore Access	Consideration of what extent of development would encourage public access along the foreshore and links with existing and proposed open space.	Public access along the foreshore to the Royal Botanic Gardens would be retained.		Yes

Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005 (DCP)

Consideration of the Sydney Harbour Foreshore Area DCP is provided in **Table 4** below.

Table 4: Summary of Compliance with the Sydney Harbour Foreshore and Waterways Area DCP

DCP	Key controls	Compliance	Yes/No
Ecological assessment (Part 2)	Determination of conservation status, statement of intent and performance criteria.	The site contains no terrestrial or aquatic ecological communities as identified in the DCP.	N/A

Landscape assessment (Part 3)	Consideration of landscape character types and performance criteria.	- The site is identified as a landmark on Map 8 of the Ecological Communities and Landscape Characters. - The Map indicates that the SOH site adjoins landscape character area No. 9 which applies to the natural foreshores of Sydney Harbour. The proposal would be consistent with the performance criteria for this landscape character area predominantly because it would not impact on any: - natural feature of the foreshore including vegetation and rock outcrops; and/or - major points or entrances to the harbour.	Yes
Design Guidelines (General Land/water based)	& - Foreshore access - Siting of buildings & structures - Built form - Signage - Planting - Maritime Character - Waterfront Industry - Community boating and water based recreation facilities. - Multi-Unit Residential Developments - Redevelopment Sites - Boat Sheds - Swimming Pools - Inclinators, Stairs and Driveways	- Public access along the foreshore would be maintained. - Restrictions on public access to the forecourt during events would be temporary only. - Recommended conditions would require all event infrastructure to be sited to minimise intrusion into primary view lines on approach to the site and to be of high quality design and execution that does not diminish or detract from the setting and presentation of the site. - Recommended conditions would require all event installations, including fencing and signage, to be of high quality design and execution that does not diminish or detract from the setting and presentation of the site. - As above. - N/A. - N/A. - N/A. - N/A. - N/A. - N/A. - N/A. - N/A. - N/A. - N/A.	Yes

APPENDIX E – MODIFICATION INSTRUMENT
