

Modification of Minister's Approval

Section 75W of the *Environmental Planning & Assessment Act 1979*

I, the Executive Director, Key Sites and Industry Assessments as delegate of the Minister for Planning under delegation dated 16 February 2015, approve the modification of the project application referred to in Schedule 1, subject to the conditions in Schedule 2.



Anthea Sargeant
Executive Director
Key Sites and Industry Assessments

Sydney 14th October 2016

SCHEDULE 1

Application No.:	DA 445-10-2003 granted by the Minister for Infrastructure and Planning on 29 June 2004, as modified by MOD 6-1-2005, MOD 90-12-2007 and MOD 52-6-2008.
Proponent:	Sydney Opera House Trust
Approval Authority:	Minister for Planning
Land:	2 Circular Quay East, Bennelong Point, Sydney (Lot 5 DP 775888 & Lot 4 DP 787933)
Project:	Sydney Opera House – Use of the Forecourt, Monumental Steps for Temporary Events and Functions
Modification Number:	DA 445-10-2003 MOD 4
Modification	The modification includes: • re-allocate the number of events and durations currently permitted; • permit a one-off 25 day event in 2016; • amend acoustic conditions; • amend the hours of operations; • amend Condition 14; and • delete Condition 3.

SCHEDULE 2

- In Schedule 1, Part C delete the definitions of 'DEC', 'Department', 'Director', 'Director-General', 'Minister' 'L_{Amax}' and 'L_{Cmax}'.
- In Schedule 1, Part C insert new definitions in alphabetical order as follows:

Bump-in	means a period in which temporary infrastructure is assembled prior to the commencement of an event
Bump-out	means the period in which temporary infrastructure is dismantled at the conclusion of an event
Department	Department of Planning and Environment
EA	Environmental Assessment entitled 'Section 75W Modification Application to DA 445-10-2003 – Sydney Opera House – Use of the Southern Forecourt and Monumental Steps for Performing Arts / Community Events and Corporate Functions' prepared by JBA Urban Planning Consultants Pty Ltd, dated 8 August 2016 and the accompanying appendices.
EPA	Environment Protection Authority
FOH	Front-of-house
Heritage Office	Office of Environment and Heritage (Heritage Office)
Minister	Minister for Planning
RTS	Response to Submissions Report entitled 'Section 75W Modification Application to DA 445-10-2003 – Sydney Opera House – Use of the Southern Forecourt and Monumental Steps for Performing Arts / Community Events and Corporate Functions – Applicant's Response to Submissions' prepared by JBA Urban Planning Consultants Pty Ltd, dated 13 September 2016 and accompanying appendices.
Secretary	The Secretary of the Department (or nominee)
TNSW	Transport for NSW
Trust	Has the same meaning as Applicant

- Replace all references to 'DEC' and 'Department of Environment and Conservation' in the consent with 'EPA'.
- In Schedule 1, Part C delete the definitions of 'Director' and 'Director-General'.
- Replace all references to 'Director', 'Director-General' or 'Senior Planner, Urban Assessments' in the consent with 'Secretary'.
- Replace all references to 'DIPNR' in the consent with 'Department'.
- In Schedule 1, Part C replace the definitions of 'Event' and 'Function' in the definitions list as follows:

Event	An event as described in the EA and RTS
Function	A function as described in the EA and RTS

- In Schedule 2, Condition 2 is modified by the deletion of the ~~struck-out~~ words and the insertion of the ***bold italics*** words as follows:

2. The development shall be carried out generally in accordance with the development application No. 445-10-2003 submitted by the application on 17 October 2003, ***as modified by MOD 6-1-2005, MOD 90-12-2007, MOD 52-6-2008 and DA 445-10-***

2003 MOD 4. The development shall be carried out generally and in accordance with the supporting documentation submitted with ~~that application~~ **those applications**, including, but not limited to, the following:

- (i) **the** Statement of Environmental Effects entitled Sydney Opera House – Forecourt and Site DA prepared by City Plan Services, dated October 2003, including revised Table 1 (Event Schedule) amended 21 May 2004; **and**
- (ii) **the EA and RTS for DA 445-10-2003 MOD 4.**

- In Schedule 2, insert a new Condition 2A follows:

2A. The stage configuration and front-of-house noise monitoring location/s for events and functions are to be generally in accordance with the plans referenced in the table below, unless otherwise amended by the approved Noise Management Plan (refer to Condition 45A of this consent).

Figure Number	Name of Plan	Document	Author	Date
2	Typical forecourt event configuration	Acoustic Report in the RTS (Appendix A)	Auditoria Pty Ltd	6 September 2016
3	Australia Day event configuration	Acoustic Report in the RTS (Appendix A)	Auditoria Pty Ltd	6 September 2016
4	Opera on the stairs event configuration	Acoustic Report in the RTS (Appendix A)	Auditoria Pty Ltd	6 September 2016
4	Indicative Western Broadwalk event footprint	Acoustic Assessment in the RTS (Appendix A)	Acoustic Studio	September 2016

- In Schedule 2, Condition 3 is replaced with the words '**Deleted**'.
- In Schedule 2, Condition 5 is modified by the deletion of the ~~struck-out~~ words and the insertion of the **bold italics** words as follows:

MAXIMUM NUMBER OF EVENTS AND FUNCTIONS

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

	MAXIMUM NUMBER OF DAYS PER YEAR MAXIMUM NUMBER OF EVENTS AND DAYS PER YEAR (Inclusive of bump-in and bump-out)	MAXIMUM NUMBER OF EVENT 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 year
	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)	

- In Schedule 2, Condition 7 is modified by the deletion of the ~~struck-out~~ words and the insertion of the ***bold italics*** words as follows:

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
8 am	11 pm 12 midnight

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

COMMENCEMENT TIME	CESSATION TIME
8 am	12 midnight

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

- In Schedule 2, insert a new Condition 9A as follows:
 - 9A. The applicant shall ensure that a suitably qualified and experienced expert such as a lighting engineer is employed to set up or review the lighting set up for all events and functions. The applicant shall exercise ultimate control of event lighting including in response to any complaints received.
- In Schedule 2, Condition 14 is modified by the insertion of the ***bold italics*** words:
 14. All forms of food functions or events must be notified to NSW Health either manually or online at www.foodauthority.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.***
- In Schedule 2, Conditions 24 and 27 are replaced with the words '***Deleted***'.
- In Schedule 2, Conditions 25, 26 and 28 are modified by the deletion of the ~~struck-out~~ words and the insertion of the ***bold italics*** words as follows:
 25. For all ~~performing arts/community~~ events ***and functions with amplified music***, noise levels must be continuously monitored in real-time, by an accredited consultant, throughout ~~the an entire performing arts / community~~ event ***or function***.
 26. The ***monitoring of*** noise levels ***required by*** ~~in Condition Nos 24 and 25~~ of this consent must be monitored at the ~~specified front-of-house~~ locations ~~set-out~~ specified in Condition ~~42 32~~.
 28. In addition to the noise monitoring requirements set out in Condition Nos ~~24 and 25~~ ***and 26***, the ~~Secretary Director, Urban Assessments~~, may at any time require noise monitoring to be carried out should complaints be received in relation to noise.
- In Schedule 2, Conditions 32, 33 and 34 are replaced with the words '***Deleted***'.

- In Schedule 2, Condition 42 is replaced as follows:

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

42. The applicant must ensure that amplified music is only played between the hours of 10 am and 11 pm (all days) and meets the front-of-house (FOH) noise limits specified in the table below when measured at the FOH.

Event	Leq _(5 minute) dB(A)	Leq _(5 minute) dB(C)	Stage Configuration and FOH Noise Monitoring Location
Typical Forecourt Event	92	102	Refer to Condition 2A of this consent
Australia Day	88	98	
The Opera on the stairs	80	90	
Western Broadwalk A – North End	90	100	
Western Broadwalk B – South End	85	95	

Note: If the FOH to stage distance is different to 40 metres, the above noise limits shall be adjusted in accordance with the table in Section G.1 of Acoustic Report in the RTS (Appendix A) or equivalent methodology.

- In Schedule 2, Condition 43 is replaced as follows:

43. Where the applicant determines an event to be held on the Monumental Steps and/or Southern Forecourt cannot achieve reasonable patron experience by meeting the noise limits in Condition 42, the noise levels may be increased by up to 5 dB subject to:

- a total performance duration of not more than 4 hours on any given day; and
- all amplified music ceasing by 10 pm.

Note: This condition does not apply to events held on the Western Broadwalk.

- In Schedule 2, Condition 44 is replaced as follows:

44. The applicant must ensure that between the hours of 8 am and 12 midnight noise from bump-in and bump-out activities (e.g. site pack-up) and temporary noise generating plant and equipment meets the noise limits specified in the table below when measured at the nearest residential receivers.

Location	Leq _(15 minute) dB(A)
Nearest residential receivers (external)	60

- In Schedule 2, Condition 45 is modified by the deletion of the ~~struck out~~ words and the insertion of the ***bold italics*** words as follows:

FINAL COMPLIANCE REPORT TO DIPNR *THE DEPARTMENT*

45. The applicant must provide a report in writing to ~~DIPNR~~ ***the Department and the EPA*** prepared by an accredited acoustical consultant by not later than twenty-eight (28) days after the completion of each event and function monitored under Condition Nos ~~24 25~~ – 31 (inclusive). The report must contain the following:

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

- In Schedule 2, insert a new Conditions 45A, 45B and 45C as follows:

NOISE MANAGEMENT PLAN

45A. Within two months of the date of this consent, the applicant shall prepare and implement an overarching Noise Management Plan for the carrying out of outdoor events and functions. The Plan must:

- (a) be prepared by a suitably qualified and experienced expert.
- (b) be reviewed by the EPA and document how its concerns have been addressed;
- (c) be consistent with the Acoustic Assessment and Acoustic Report in the RTS (Appendix A);
- (d) detail the speaker arrangement, stage configuration and front-of-house location for all types of events;
- (e) detail the noise limits and goals for events;
- (f) describe all reasonable and feasible measures (e.g. use of limiters) to be implemented to minimise noise from the operation of outdoor events and comply with the noise limits in this consent;
- (g) include procedures carrying out sound checks prior to and during events and rehearsals to ensure compliance with the noise limits in this consent;
- (h) include measures to ensure quick and orderly patron departure, minimisation of patron noise and identification and minimisation of noisy bump-in and bump-out practices;
- (i) include a suitable noise monitoring program;
- (j) include an early warning system and reactive management procedure to ensure corrective actions are implemented prior to exceedences of noise limits in this consent;
- (k) include a suitable complaints management system;
- (l) include a suitable community consultation program including early notification of residents, prior to the commencement of events; and

- (m) include a program of continuous improvement to ensure the plan is regularly updated based on lessons learnt from events and functions held.

The applicant shall submit the final copy of the Plan to the Secretary for approval within 7 days of its completion.

NOISE MANAGEMENT REVIEW

- 45B. One year from the date of this consent and three years thereafter, the applicant shall undertake a review of the noise emissions from all outdoor events and functions held during the preceding period. The review must:
- (a) be undertaken in consultation with the EPA;
 - (b) document and consider all noise monitoring data recorded, and compliance report submitted, in accordance with the requirements of this consent;
 - (c) document and consider any identified exceedances of the noise limits in this consent and any complaints received; and
 - (d) evaluate the appropriateness of the noise limits and hours of operation for amplified music in this consent based on the review.

Each review must be submitted to the Secretary and the EPA within 7 days of its completion.

- 45C. The Secretary may direct the applicant to undertake noise attenuation works at any time in the event significant community noise complaints are received due to the operation of outdoor events and functions and/or the applicant is found to be exceeding the noise limits in this consent. These works must be undertaken to the satisfaction of the Secretary.

- In Schedule 2, Conditions 54 and 55 are replaced with the following:

TEMPORARY STRUCTURES CONTINUED

54. Temporary structures associated with events and functions shall comply with the following:
- (a) 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 and to maximise public access to the Forecourt and Monumental Steps;
 - (b) all structures, containers, scaffold towers and the like 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 Sydney Opera House itself;
 - (c) no infrastructure element should be highly reflective, white or off-white, but a more neutral colour that does not compete with the Sydney Opera House shells or Podium;
 - (d) 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;
 - (e) 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 the World Heritage Listed site;
 - (f) stage, rear and side-stage trucks and props for the one-off opera event in 2016, 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; and
- (g) all temporary event structures shall comply with the relevant provisions of applicable Australian Standards and the Building Code of Australia.

Note: The requirement for no white or off-white infrastructure in subsection (c) of this condition would take up to 12 months from the date of this consent to implement.

SITE PROTECTION AND WORKS

55. The applicant shall ensure significant building fabric and elements are protected from potential damage during all works associated with events and functions. Protection systems must ensure significant fabric is not damaged or removed.

- In Schedule 2, insert a new Condition 55A as follows:

NOMINATED HERITAGE CONSULTANT

- 55A. The applicant shall ensure a suitably qualified and experienced heritage consultant is to be nominated to provide advice for all temporary events and functions in relation to potential impacts on heritage values, including the impact on significant fabric.

- In Schedule 2, Condition 59 is modified by the deletion of the ~~struck-out~~ words and the insertion of the ***bold italics*** words as follows:

59. ~~The use of the premises~~ ***Events and functions subject to this consent*** shall be operated at all times in accordance with the requirements of the ~~above~~ conditions of ***this*** consent.

- In Schedule 2, insert new Conditions 61 to 62 as follows:

TEMPORARY FOOD SALES – SET UP AND OPERATION

61. If required, all temporary food stalls or temporary food vendors associated with Sydney Opera House events must have a current Approval from the City of Sydney in accordance with the requirements of the *Local Government Act 1993*. Approval numbers (Temporary Food Permit numbers) for all food operators must be submitted to the City 14 days prior to the event.
62. The set up and operation of any temporary food stall or vendor and associated equipment must comply with relevant sections of the City of Sydney fact sheet – "Requirements for the Operation of a Temporary Food Stall" and Standard 3.2.2, Food Safety Practices and General Requirements of the Australia and New Zealand Food Standards Code.

Note: The "Requirements for the Operation of a Temporary Food Stall, City of Sydney" and the "Temporary Food Stalls Event Register" and "Details of Temporary Food Stall " forms can be obtained from the City of Sydney website <http://www.cityofsydney.nsw.gov.au>

- In Schedule 2, insert new Conditions 63 to 67 as follows:

HERITAGE GUIDELINES

63. All events and functions are to be undertaken in accordance with the latest version of the *Sydney Opera House Outdoor Events and Activities Heritage Guidelines*.

Within 2 months of the date of this consent, the applicant shall engage a suitably qualified and experienced expert to prepare an updated version of the draft *Sydney Opera House Outdoor Events and Activities Heritage Guidelines* (dated August 2016) in Appendix C of the RTS in consultation with the Heritage Office.

The applicant shall submit the final copy of the Guidelines to the Secretary no later than 7 days after its completion.

OUTDOOR EVENT GUIDE

64. All events and functions are to be undertaken in accordance with the latest version of the *Sydney Opera House Outdoor Event Guide*.

Within 4 months of the date of this consent, the applicant shall prepare an updated version of the *Sydney Opera House Outdoor Event Guide* (dated 24 September 2015) in Appendix C of the RTS in consultation with Council, NSW Police, TNSW, the Heritage Office and the EPA.

The applicant shall submit the final copy of the Guide to the Secretary no later than 7 days after its completion.

EVENT MANAGEMENT PLANS

65. All events and functions are to be undertaken in accordance with an Event Management Plan. The Plan must:
- be tailored/specific to the event and/or function being undertaken;
 - be consistent with the latest versions of the *Sydney Opera House Outdoor Event Guide* and the *Sydney Opera House Outdoor Events and Activities Heritage Guidelines*;
 - describe the staging and timeline of events including key performances and activities, site establishment, bump-in and bump-out;
 - describe all statutory approvals required and obtained to undertake the event;
 - describe the roles and responsibilities of key employees involved in overseeing the event;
 - details how the environmental performance of the event would be monitored and managed, and identify what actions would be taken to address potential impacts;
 - comprehensively address the following:
 - operational transport and traffic management;
 - pedestrian access management;
 - noise management, including reactive noise management measures and noise monitoring;
 - heritage and conservation management;
 - security and staff management;

- (vi) lighting management;
- (vii) emergency management/evacuation and incident response protocols;
- (viii) alcohol and food management;
- (ix) occupational health and safety;
- (x) infrastructure and services management;
- (xi) operational waste management;
- (xii) water management; and
- (xiii) community consultation and complaints management.
- (h) incorporate a Noise Management Sub-Plan (Condition 66).

The applicant shall submit the final copy of this Plan to the Secretary no later than 7 days prior to the commencement of the event.

NOISE MANAGEMENT SUB-PLAN

66. All events and functions are to be undertaken in accordance with a tailored Noise Management Plan. The Plan is to be prepared by a suitably qualified and experienced expert and reviewed by the EPA. The Plan must:
- (a) be consistent with the Noise Management Plan required in Condition 45A and all other conditions of this consent;
 - (b) detail the speaker arrangement, stage configuration, front-of-house (i.e. mixing desk) location and all controls to be implemented to ensure compliance with the noise limits in this consent; and
 - (c) be certified (signed-off) by a suitably qualified and experienced expert confirming the event set up has the ability to comply with all noise limits in this consent.

The applicant shall submit the final copy of this Plan to the Secretary no later than 7 days prior to the commencement of the event.

THE OPERA EXEMPTIONS

67. The one-off 25 day event to be undertaken in 2016 (Sydney Opera House – The Opera) is exempt from the requirements of Conditions 65 to 66 of this consent. This event shall be carried out in accordance with all documentation submitted in support of the application, in particular the recommendations made within:
- (a) the Heritage Impact Statement prepared by Design 5 Architects in Appendix K of the EA;
 - (b) the Acoustic Assessment prepared by Acoustic Studio and the Acoustic Report prepared by Auditoria in Appendix A of the RTS;
 - (c) the Lighting Impact Assessment prepared by Opera Australia in Appendix H of the EA; and
 - (d) the Traffic Management Plan prepared by Event Services International Pty Ltd in Appendix L of the EA.

- In Schedule 2, insert new Advisory notes AN2 and AN3 as follows:

AN2. Commonwealth Environment Protection and Biodiversity Conservation Act 1999

The Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* provides that a person must not take an action which has, will have, or is likely to have a significant impact on a matter of national environmental significance (NES) matter; or Commonwealth land, without an approval from the Commonwealth Environment Minister.

This application has been assessed in accordance with the New South Wales *Environmental Planning & Assessment Act 1979*. It is the Applicant's responsibility to consult the Australian Commonwealth Department of Environment to determine the need for Commonwealth approval and you should not construe this grant of approval as notification to you that the Commonwealth Act does not apply. The Commonwealth Act may have application and you should obtain advice about this matter. There are severe penalties for non-compliance with the Commonwealth legislation.

AN3. Heritage Act 1977

It is advised that the application may require separate approval under the *Heritage Act 1977*.

This application has been assessed in accordance with the New South Wales *Environmental Planning & Assessment Act 1979*. It is the Applicant's responsibility to consult the Office of Environment and Heritage (Heritage Office) and the NSW Heritage Council to determine the need for separate approval under the *Heritage Act 1977* and you should not construe this grant of approval as notification to you that this Act does not apply.

End of modifications to DA 445-10-2003 MOD 4