



Planning &
Environment

**STATE SIGNIFICANT DEVELOPMENT:
(SSD 7665)
*Sydney Opera House - Safety, Accessibility,
Venue Enhancement and Entry Foyer
Refurbishment Works***



Environmental Assessment Report
Section 89H of the
Environmental Planning and Assessment Act 1979

May 2017

ABBREVIATIONS

Applicant	Sydney Opera House Trust
Agency	NSW Planning and Environment
CIV	Capital Investment Value
Consent	Development Consent
Council	City of Sydney Council
Department	Department of Planning and Environment
EPA	Environmental Protection Authority
EIS	Environmental Impact Statement entitled ' <i>Sydney Opera House Building Renewal Safety, Accessibility and Venue Enhancement Works and Entry Foyer Refurbishment</i> ' prepared by Keylan Consulting Pty Ltd and dated September 2016
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPI	Environmental Planning Instrument
LEP	Sydney Local Environmental Plan 2012
Minister	Minister for Planning
OEH	Office of Environment and Heritage
RtS	Response to Submissions report entitled ' <i>Sydney Opera House Building Renewal Program, Safety, Accessibility and Venue Enhancement Works and Entry Foyer Refurbishment</i> ' prepared by Keylan Consulting Pty Ltd and accompanying appendices dated 3 February 2017
SEARs	Secretary's Environmental Assessment Requirements
Secretary	Secretary of Planning and Environment, or delegate.
SOH	Sydney Opera House
SRD SEPP	<i>State Environmental Planning Policy (State and Regional Development) 2011</i>
SSD	State Significant Development
TfNSW	Transport for NSW

Cover Photograph: Photograph of Sydney Opera House
(Source: Applicant's EIS)

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EXECUTIVE SUMMARY

This report assesses a State significant development application (SSD 7945) lodged by the Sydney Opera House Trust (the Applicant) under Part 4 of *Environmental Planning and Assessment Act 1979* (EP&A Act). The application seeks consent for safety, accessibility and venue enhancement works to the Joan Sutherland Theatre (JST), new office accommodation, and entry foyer refurbishment works at the Sydney Opera House (SOH).

The development is SSD under clause 1 of Schedule 2 of the *State Environmental Planning Policy (State and Regional Development) 2011*, as it is development undertaken on the SOH site. Therefore, the Minister for Planning is the consent authority.

The Department of Planning and Environment (the Department) exhibited the application for 46 days from 15 September 2016 to 31 October 2016. The Department received five submissions in response to the application, including four submissions from public authorities and one submission from the general public.

The City of Sydney Council (Council) objected to the application and raised concerns with the level of detail in the application and the potential impacts of the proposed works on the design and character of the SOH building. The Heritage Council of NSW (Heritage Council) raised concerns with the potential impacts of the proposed works on the historical, aesthetic and social values of the SOH. The Environmental Protection Authority (EPA) raised concerns with the potential construction impacts and TfNSW recommended a condition for the Applicant to prepare a Construction Pedestrian and Traffic Management Plan. One public submission supported the application.

The Applicant submitted a Response to Submissions (RtS) report which included minor amendments to the proposal, including deletion of the slot windows for the office accommodation, design amendments to the new follow spot room, inclusion of temporary box office and cloakroom facilities on the vehicle concourse, and proposed a condition for the interpretation of the 'Curtain of the Sun' tapestry.

The Department received further submissions from Council, EPA and the Heritage Council in response to the RtS. Council maintained its objection to the application raising concerns with the materials for the new escalators, requested further details of the works relative to significant fabric, and recommended requirements for the interpretation of the 'Curtain of the Sun' tapestry. The Heritage Council recommended conditions requiring the Applicant to provide further details of the proposed works as part of the Section 60 application under Part 4 of the *Heritage Act 1977*.

The Department has considered all relevant matters under section 79C of the *Environmental Planning and Assessment Act 1979* (EP&A Act), the objects of the EP&A Act, and the principles of ecologically sustainable development. The Department has found the key assessment issues associated with the proposal are the potential heritage impacts to the SOH.

The Department acknowledges the proposal would result in the loss of some building fabric, however, the proposed works have been sensitively designed to minimise impacts and would result in substantial functional benefits to the operation of the SOH, and would improve accessibility for people with reduced mobility. The works are considered consistent with relevant policies in the *Sydney Opera House Management Plan 2005* and would not adversely affect the outstanding universal values that underpin the World Heritage Listing of the SOH. The Department considers that construction noise and traffic impacts associated with the proposal can be appropriately mitigated and managed by the recommended conditions of consent.

The Department concludes the proposal is in the public interest as it would improve functionality of the building, improve compliance with modern building accessibility requirements, provide more contemporary entry foyer areas, and support the SOH's function as a world class performing arts centre and tourist attraction. Accordingly, the Department recommends that the application be approved, subject to the recommended conditions.

As Council has objected to the application, it is being referred to the Minister for Planning for determination.

1. BACKGROUND

1.1 Introduction

This report provides an assessment of a State significant development application (SSD 7665) lodged by Sydney Opera House Trust (the Applicant) seeking consent for safety, accessibility and venue enhancement works to the Joan Sutherland Theatre (JST), new office accommodation, and entry foyer refurbishment works at the Sydney Opera House (SOH).

1.2 Sydney Opera House

The SOH is one of the world's most distinctive and renowned buildings, and is internationally recognised as a symbol of Sydney and Australia. The SOH building is also of state, national and world heritage significance as a twentieth century architectural masterpiece.

The building is situated on a prominent peninsular in Sydney Harbour known as Bennelong Point, at the north-eastern edge of the Sydney CBD. It is one of Sydney's premier entertainment and tourist destinations, attracting approximately 8.2 million visitors per year.

The two main performance spaces within the building are the Concert Hall on the western side of the SOH and the JST on the eastern side. Both performance spaces are surrounded by large foyers to the north and south. The building sits above a large forecourt area paved with cobblestone and reconstituted granite and is serviced by an underground loading dock below the forecourt which is accessed via Macquarie Street.

The lower concourse of the SOH is located along the western side of the site, providing amenities and services to visitors and staff including the underground Opera House Car Park, Opera Kitchen, Opera Bar and the Visitor and Interpretation Centre. Pedestrian access is provided to the lower concourse area via a series of stairs and escalators located at the northern and southern ends.

1.3 The Site

The SOH is located at Bennelong Point and is legally described as Lot 5 in DP 775888 and Lot 4 in DP 787933. The site is bounded by Sydney Harbor to the north, east and west, Circular Quay to the south-west, and the Royal Botanic Gardens and Government House to the south-east. A mixed-use residential apartment building (Bennelong Apartments) is located to the south of the site at 1 Macquarie Street. The site and its surroundings are shown at **Figure 1** below.

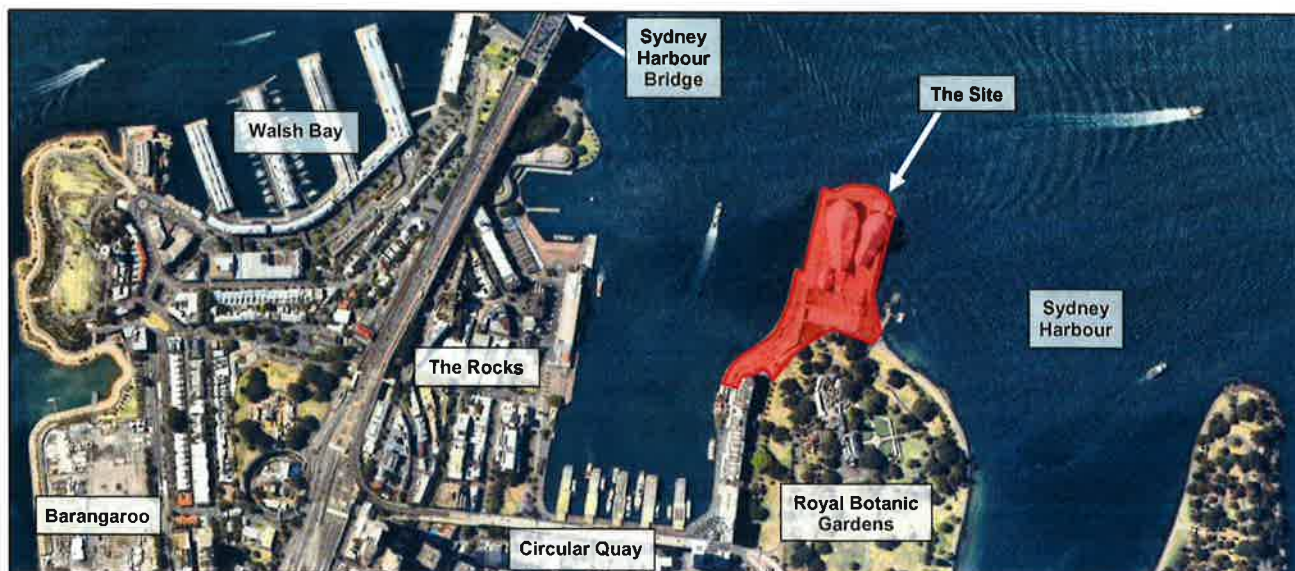


Figure 1: Site location (Shown in Red) (Source: Nearmap)

1.4 Sydney Opera House Building Renewal Program

The Sydney Opera House Trust (the Trust) has developed a Building Renewal Program (BRP) to guide the transformation of the SOH building over the next decade. The BRP is valued at \$202 million and represents the largest program of capital works to the SOH building since its opening in 1973.

The BRP is aimed at maximising the SOH's economic and cultural significance as a tourist destination and performing arts centre for the 21st century. In addition, the BRP aims to improve the operational efficiency of the building and ensure compliance with modern building, accessibility and Work Health and Safety requirements.

The development of the BRP has been informed by input from the Eminent Architects Panel, established by the Trust in 2011 to advise on architecture and design issues. The BRP has also been developed in consultation with a wide range of stakeholders, including Opera Australia and The Australian Ballet, the SOH Conservation Council, the Commonwealth Department of Environment, Heritage Council of NSW, City of Sydney Council (Council), The National Trust, the Metropolitan Local Aboriginal Land Council, the disabled community and surrounding landowners.

The BRP comprises a wide range of works to the SOH building, including upgrading of the JST (replacing theatre equipment, new office accommodation area, and providing accessibility upgrades), upgrading entry foyer areas, a new function centre (to be located within the building envelope), a new creative learning centre, and upgrading of the Concert Hall (to improve acoustics and accessibility)(see **Figure 2**).

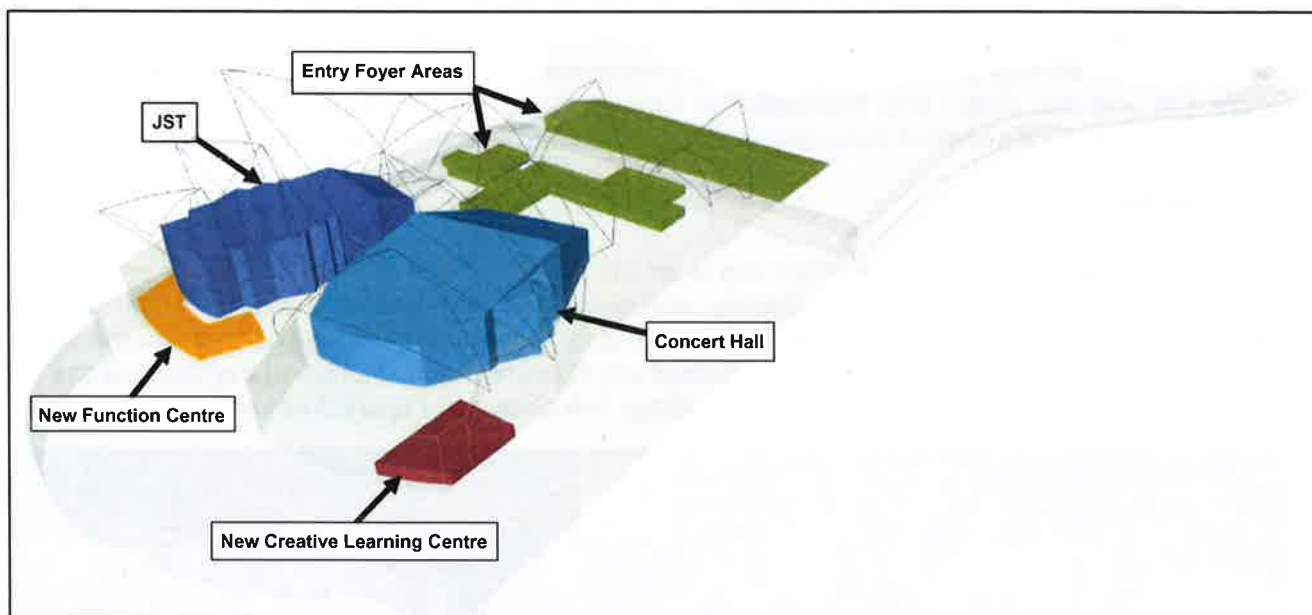


Figure 2: Sydney Opera House Building Renewal Program

The BRP works have been incorporated into a number of separate SSD applications. On 25 October 2016, the Department approved the first component of works under the BRP, which comprised upgrading and replacing theatre machinery and associated infrastructure in the JST (SSD 7639).

The current application is seeking consent for safety, accessibility and venue enhancement works to the JST, new office accommodation, and part of the refurbishment works to the entry foyers under the BRP (see **Figure 2**). The proposed works aim to improve the efficiency of the building, ensure compliance, where practical, with modern building accessibility requirements and respond to the SOH Accessibility Master Plan. The entry foyer refurbishment works are aimed at improving accessibility and providing more contemporary entry and ticketing facilities.

The Department is also currently assessing another SSD application for the new function centre and related works (SSD 7881), and issued SEARs for the Concert Hall upgrade in late 2016 (SSD 8101).

2. PROPOSED DEVELOPMENT

2.1. Development Description

The Application, as proposed in the EIS, and amended by the RtS, seeks consent for safety, accessibility and venue enhancement works to the JST, new office accommodation, and entry foyer refurbishment works at the SOH. The key components of the proposal are detailed in **Table 1**, and are shown in **Figures 3 to 10** below.

Table 1: Key components of the proposed development.

Aspect	Description
Works to the Joan Sutherland Theatre	• New accessible paths of travel in the JST, including minor reconfiguration of doors, steps and six seats; • new accessible seating areas in the JST, including replacement of 191 seats (in rows A, B, C, M, N and P) with adaptable seating providing up to 23 accessible seats (8 in rows A-C and 15 in rows M-P), including removable platforms for accessible paths of travel and safety balustrading; • a new lift core (Lift 31) providing access to the northern foyers (across Levels 1, 2, 3 and 4), including demolition of beams and stairs to accommodate the new lift core; • a new accessible passage way with ramped areas to the west of the JST (on Level 2) between the lower level accessible seating in the JST and existing lift (Lift 8) and proposed new lift core (Lift 31), including demolition of slab and walls; • a new accessible passage way with ramped areas to the west of the JST (on Level 3) between the upper level accessible seating in the JST and existing lift (Lift 8) and proposed new lift core (Lift 31), including demolition of a section of stairs; • new storage, plant, kitchen store, and back of house areas to the west of the JST (on Level 2); • upgrading of an existing lift core (Lift 8) and provision of new lift lobby areas (on Levels 2 and 3); • accessibility upgrades to two dressing room and toilet facilities for performers, and accessibility upgrades to the orchestra pit of the JST (on Level 1); • accessibility upgrades to two toilet facilities for patrons in the JST (on Level 3); • refurbishment of seating in the JST to achieve improved fire rating standards; • replacement of the existing stage iron curtain with a new lightweight fabric curtain, and removal of the existing "flap" that covers the gap between stage and auditorium; and • construction of a new follow spot room at the rear of the JST.
New Office Accommodation	• Open plan offices to house 43 work stations; • two meeting rooms; • kitchenette; and • toilets.
Entry Foyer Refurbishment Works	• Reconfiguring the cloak, ticketing, seating, café, merchandise shop, upgrading the traditional box office with counter processing facilities, and provision of a bar and lounge area with LED screen (known as the Utzon bar and lounge); • replacing existing stairs from the vehicle concourse to the entry foyer on Level 1 with a new double escalator; • provision of a new lift core (Lift 36) providing access between the ground floor, entry foyer on Level 1, and the southern foyer of the JST on Level 2; and • temporary erection and operation of box office and cloak facilities on the vehicle concourse (to be used during construction of the entry foyer refurbishment works).
Construction	• The construction works are proposed to be undertaken on a 24-hour-a-day basis and will require a seven month closure period of the JST.

Aspect	Description
	Some of the works, such as the fit out and commissioning of Lift 31 and Lift 36, are programmed to continue after the 7 month closure period of the JST.
Employment and CIV	75 to 100 construction jobs - CIV of \$33.17 million

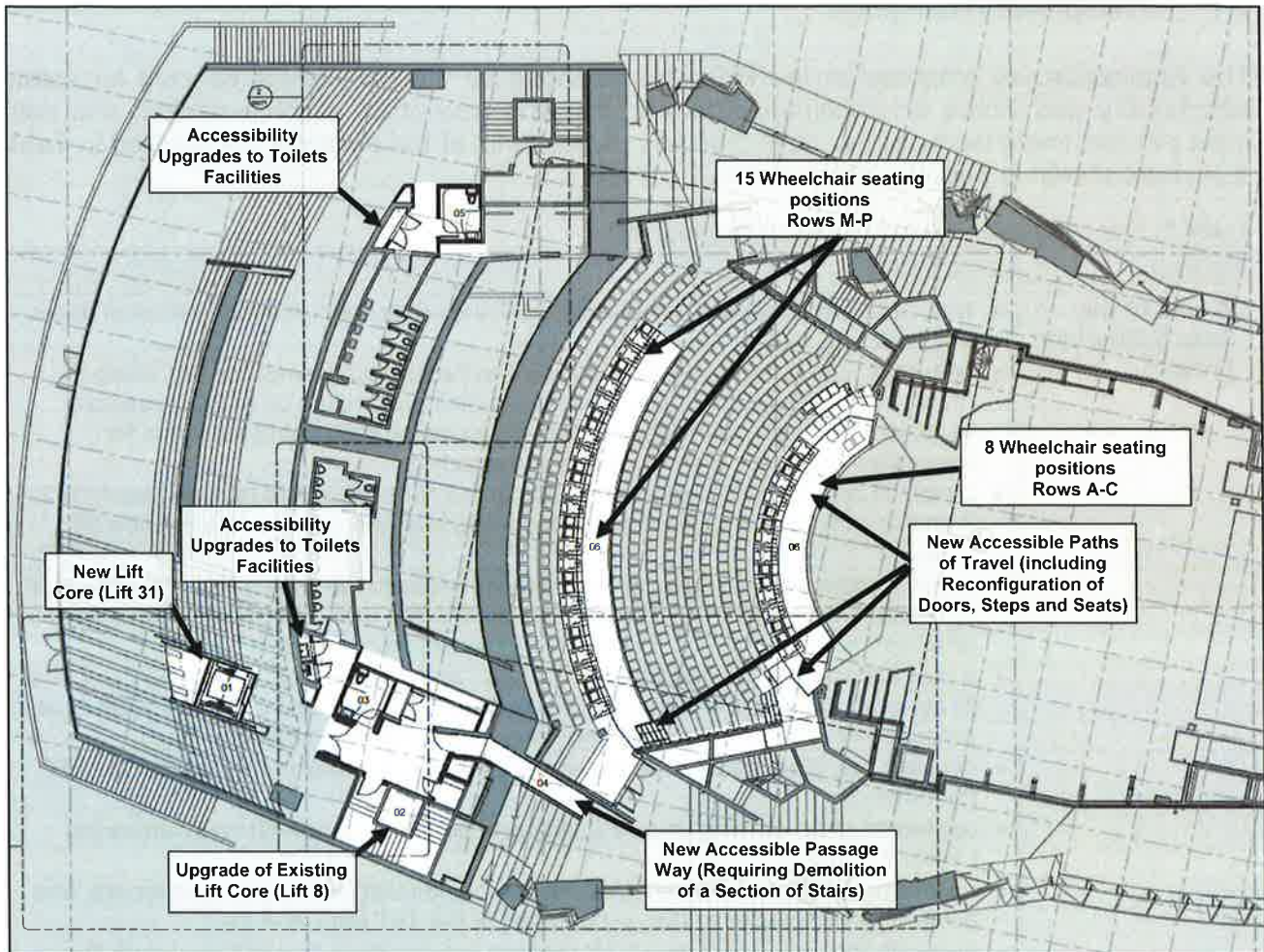


Figure 3: Proposed works to the JST (Level 3) (Source: EIS)

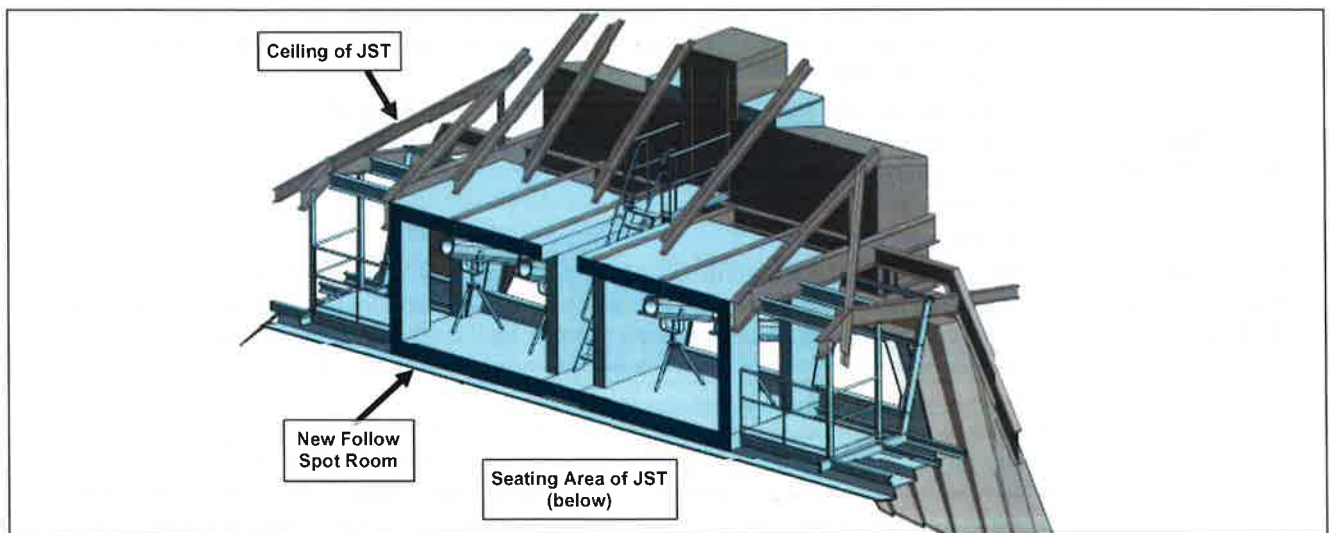


Figure 4: Proposed new follow spot room at the rear of the JST (shown in blue) (Source: RfS)

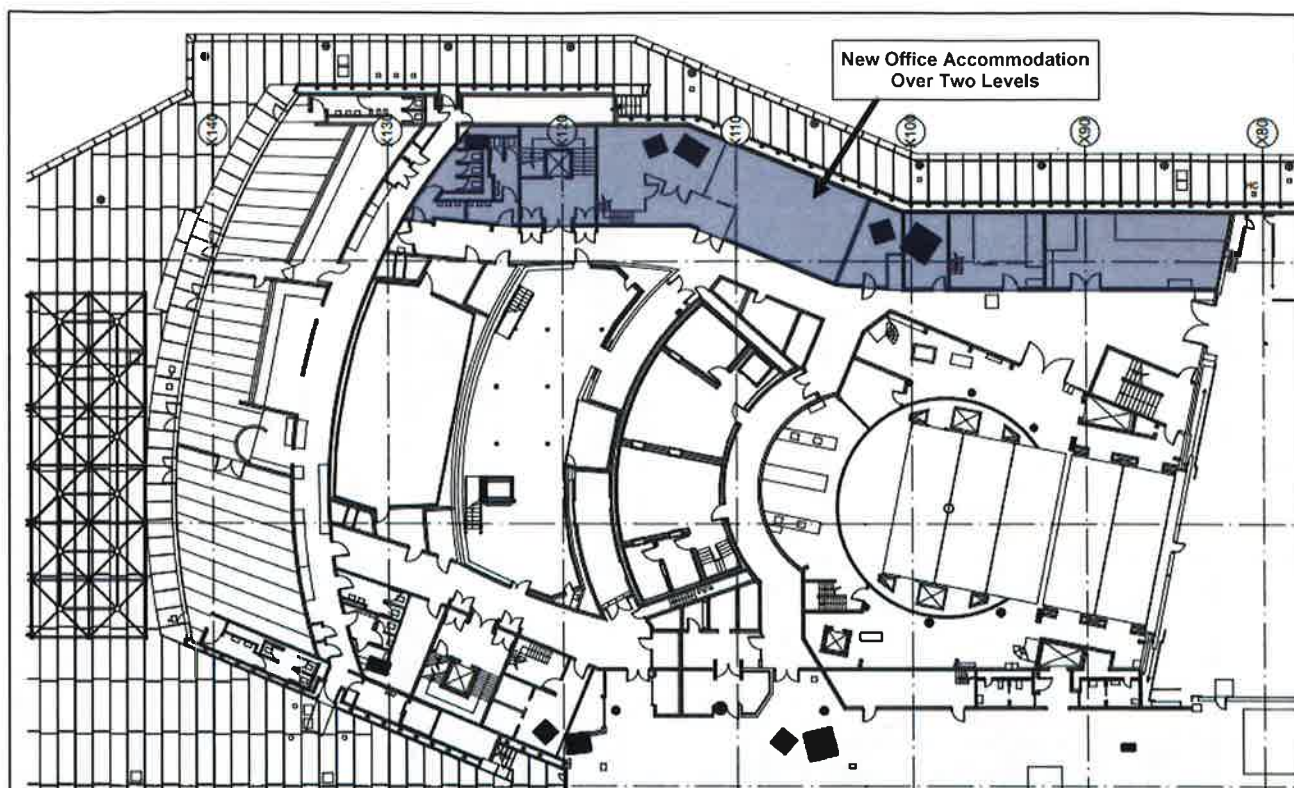


Figure 5: Location of proposed new office accommodation (ground level and mezzanine level) (shown in purple) (Source: RtS)



Figure 6: Images of proposed new office accommodation, including the ground level (left) and mezzanine level (right) (Source: RtS)



Figure 7: Images of proposed refurbishment to the entry foyer (left and right) (Source: EIS)

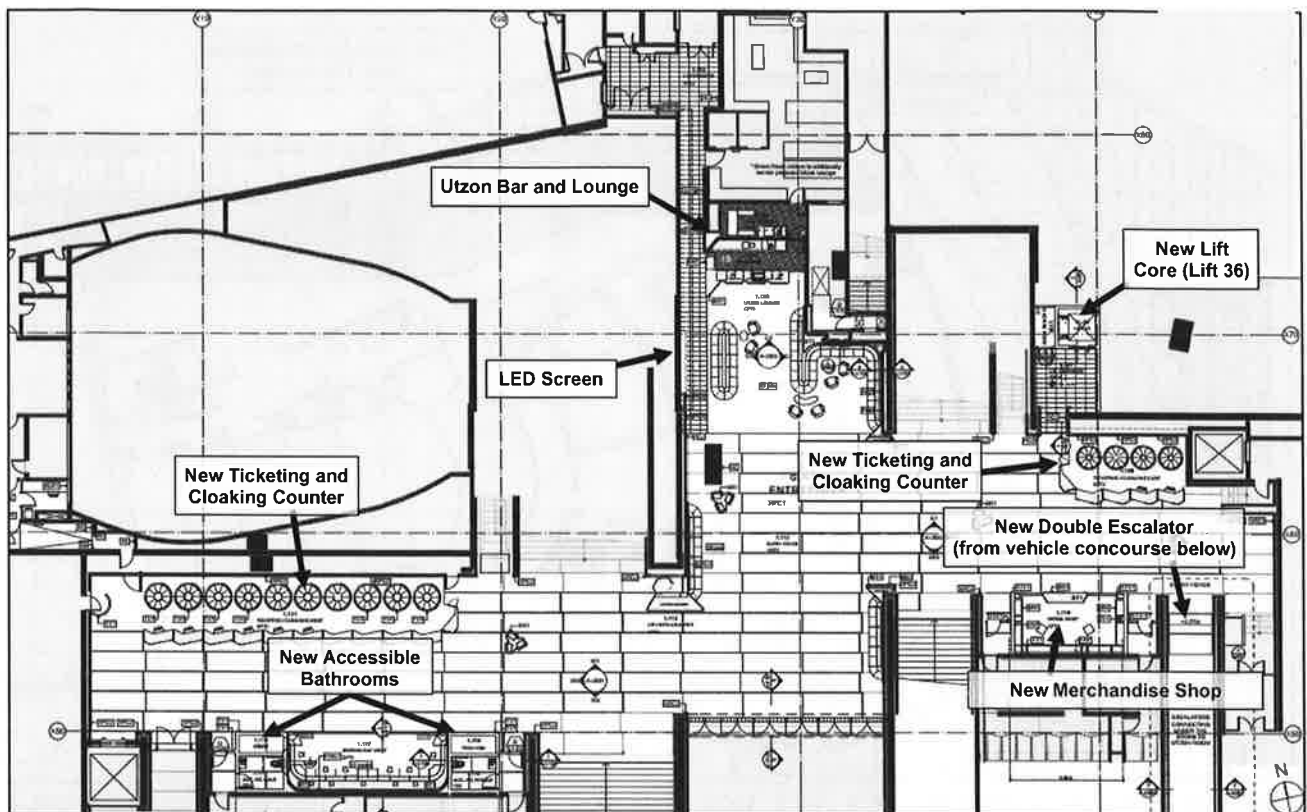


Figure 8: Proposed refurbishment to the entry foyer (Level 1) (Source: EIS)

3. STATUTORY CONTEXT

3.1 SEPP (State and Regional Development) 2011

The proposal is SSD pursuant to Schedule 2 of *State Environmental Planning Policy (State and Regional Development) 2011* (SRD SEPP), as it is development within the SOH site. Therefore, the Minister for Planning is the consent authority for the proposed development.

3.2 Permissibility

Under the *Sydney Local Environmental Plan 2012* the site is zoned B8 Metropolitan Centre and the proposed development is permissible with consent.

3.3 Delegated Authority

As City of Sydney Council (Council) made an objection to the application, the Department has no delegation to determine the application. Consequently, only the Minister for Planning can determine the application.

3.4 Sydney Opera House Management Plan 2005

Clause 288 of the *Environmental Planning and Assessment Regulation 2000* (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 *Sydney Opera House Utzon Design Principles 2002* (Utzon Design Principles), should be relied upon to determine the impact of a project on the heritage values of the SOH. The CMP and Utzon

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 5.1** of this report. The Department's assessment concludes the proposal would continue to comply with the relevant provisions of the SOH Management Plan, the CMP and the Utzon Design Principles.

3.5 Environment Protection Biodiversity Conservation Act 1999 (EPBC Act)

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

Clauses 12 and 15B (Chapter 2, Part 3, Division 1, Subdivision A) of the EPBC Act outlines 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 or under bilateral arrangements.

The Applicant referred the proposed works (along with other proposed works to the SOH which are the subject of separate SSD applications) to the Commonwealth Department of Environment and Energy to determine whether the proposed works constituted a controlled action under the EPBC Act. On 6 January 2017, the Commonwealth Department of Environment and Energy determined that the proposed works are a controlled action, and therefore require approval under the EPBC Act.

In this particular instance, the bilateral arrangements in place between the Commonwealth and NSW Governments cannot be exercised as the proposed works were declared a controlled action after the application had been publically exhibited. Requests to exercise the bilateral arrangements must be made as part of the Request for SEARs, to enable any specific matters of national environmental significance to be identified in the SEARs and subsequently addressed in the EIS. The Applicant will therefore seek a separate approval for the proposed works with the Commonwealth under the EPBC Act.

The Department of Planning and Environment (the Department) may determine the application noting that the obligation to obtain further approval under the EPBC Act rests with the Applicant. Critically, there is no impediment for the Department to determine the application in this regard. To ensure obligations are clear to the Applicant, the Department has recommended an Advisory Note to reinforce the Applicant's responsibilities and statutory requirements under the EPBC Act for environmental approvals (see **Appendix C**).

3.6 The Heritage Act 1977

Section 89J of the EP&A Act states that approval under Part 4 of the *Heritage Act 1977* is not required for SSD proposals that have been granted development consent. However, in the case of the SOH, the Applicant is still required to obtain a separate approval under Part 4 of the *Heritage Act 1977* following the granting of consent under Part 4 of the EP&A Act.

This requirement is identified in the Sydney Opera House Management Plan (2005), and is required under clause 90, Schedule 6 and clause 16, Schedule 6A of the EP&A Act. The Applicant will therefore need to seek a separate approval from the Heritage Council of NSW under Part 4 of *Heritage Act 1977*, following the granting of any consent by the Minister for this application. The Department has recommended an Advisory Note to reinforce the Applicant's responsibilities to seek further approval for the works under Part 4 of the *Heritage Act 1977*.

The Department has considered heritage issues in its assessment of the proposal in **Section 5.1** of this report. The Department's assessment concludes the proposal would not adversely affect the local, State, National or World heritage values of the SOH, and would comply with the relevant provisions of the SOH Management Plan.

3.7 Environmental Planning Instruments

The following environmental planning instruments (EPIs) apply to the site:

- *State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP)*;
- *State Environmental Planning Policy (State Significant Precincts) 2005*;
- *State Environmental Planning Policy No.55 – Remediation of Land*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SREP)*; and
- *Sydney Local Environmental Plan 2012*.

An assessment of compliance with the above EPIs is provided at **Appendix B**. In summary, the Department is satisfied the application complies with the relevant provisions of the EPIs.

While development control plans (DCPs) do not apply to SSD under clause 11 of the SRD SEPP, consideration has been given to relevant clauses of the Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005 in **Appendix B**.

3.8 Objects of the EP&A Act

Decisions made under the EP&A Act must have regard to the objects of the EP&A Act, as set out in section 5 of the Act. SSD 7665 is considered to be consistent with the objects of the Act, as the application will promote the orderly and economic use of the site. The Department has considered the objects of the EP&A Act in **Table 2** below and is satisfied that the proposal complies with all relevant objects.

Table 2: Consideration of the proposal against the objects of the EP&A Act

Objects of the EP&A Act	Consideration
(a) to encourage:	
(i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment	The proposal does not impact on natural and artificial resources, as it largely involves internal building works within an already disturbed urban area. The proposal will improve the accessibility and functionality of the SOH building, which will enhance economic and social welfare.
(ii) the promotion and co-ordination of the orderly and economic use and development of land	The proposed development will support the SOH's function as a world class performing arts centre and tourist attraction and the merits of the proposal are considered in Section 5 .
(iii) the protection, provision and co-ordination of communication and utility services	The proposal is unlikely to impact on existing communication and utility services.
(iv) the provision of land for public purposes	The proposal largely involves internal building works and will not impact on the provision of land for public purposes. Any impacts to nearby surrounding public spaces during the construction phase can be mitigated and managed.
(v) the provision and co-ordination of community services and facilities	The proposal will contribute towards improving community facility provision by providing improved access, operational efficiency and patron facilities in the SOH.
(vi) the protection of the environment,	The proposed works are largely internal building works

including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats	and would not impact on the natural environment.
(vii) ecologically sustainable development (ESD)	Section 3.10 considers the proposal against the principles of ESD.
(viii) the provision and maintenance of affordable housing	The proposal does not involve the provision / maintenance of affordable housing.
(b) to promote the sharing of the responsibility for environmental planning between the different levels of government in the State	The proposal is SSD in accordance with the SRD SEPP. The Department consulted with Council, the Commonwealth Department of Environment and Energy, and other relevant agencies on the proposal.
(c) to provide increased opportunity for public involvement and participation in environmental planning and assessment.	Section 4 sets out details of the Department's public exhibition of the proposal.

3.9 Environmental Planning and Assessment Regulation 2000

Subject to any other references to compliance with the EP&A Regulation cited this report, the requirements for notification (Part 6, Division 6) and fees (Part 15, Division 1AA) have been complied with.

3.10 Ecologically Sustainable Development

The EP&A Act adopts the definition of ecologically sustainable development (ESD) from the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes and that ESD can be achieved through the implementation of:

- (a) *the precautionary principle;*
- (b) *inter-generational equity;*
- (c) *conservation of biological diversity and ecological integrity; and*
- (d) *improved valuation, pricing and incentive mechanisms.*

The Applicant has considered and addressed ESD principles as they relate to the proposal in Section 6.1 and Appendix 8 of the EIS. This describes the Applicant's approach to integrating energy efficient technologies and sustainable practices in the design, construction and ongoing operation of the development.

The Department has assessed the proposed development in relation to the ESD principles and has made the following conclusions:

- **Precautionary Principle** - the proposal will not result in any serious or irreversible environmental damage, as:
 - it aims to improve the accessibility and functionality of the SOH building and the works have been designed to minimise impacts on significant spaces and building fabric; and
 - the proposed works largely comprise internal building works and would not result in significant environmental impacts, subject to the implementation of appropriate mitigation and management measures.
- **Inter-Generational Equity** – the proposal will not result in adverse impacts on the health, diversity and productivity of the environment for the benefit of future generations, as it would:
 - improve the accessibility and operational capabilities of the SOH building, enabling the facility to continue to hold world class performing arts events for the benefit of future generations; and
 - not give rise to any significant health, diversity or productivity issues.
- **Biodiversity Principle** – the proposal will have no significant impact on biodiversity or ecological value, as the proposed works largely comprise internal building works to the existing

SOH building, and would not result in any significant environmental impacts, subject to the implementation of appropriate mitigation and management measures.

- **Valuation Principle** – the proposal includes a number of sustainability initiatives to reduce the ongoing operating costs of the development, including minimisation of greenhouse gas emissions through new energy efficient LED light fittings, use of sustainable building materials, and minimising demolition waste.

Having considered the objects of the EP&A Act, including the encouragement of ESD in its assessment of the application, the Department is satisfied that the proposal encourages ESD.

3.11 Secretary's Environmental Assessment Requirements

Section 7.1 of the EIS addresses compliance with the Director-General's (now Secretary's) Environmental Assessment Requirements. These matters have been sufficiently addressed in the EIS to enable the Department to undertake a proper assessment of the proposal in accordance with the EP&A Act.

3.12 Strategic Context

The Department considers the proposal is consistent with the following State/regional/local strategies:

- the NSW State Priorities to create jobs, via the creation of 75 to 100 construction jobs
- the objectives of *Towards our Greater Sydney 2056* and *A Plan for Growing Sydney*, which promotes the Sydney CBD as Australia's premier location for employment, supported by a vibrant mixture of land uses and cultural activity, and iconic places and buildings.
- the relevant priorities and actions of the Greater Sydney Commission's *Draft Central District Plan*, in particular:
 - a 'Productive City' by driving economic growth and contributing to job targets
 - a 'Sustainable City' by managing the potential impacts of the development on the environment.

The proposed works support the aims of the BRP and would provide essential accessibility improvements and more contemporary facilities that would improve the cultural and performing arts experience at the SOH and support tourism. The proposal is therefore consistent with the key aims and objectives of the above strategies.

4. CONSULTATION AND SUBMISSIONS

4.1 Exhibition

As required by section 89F of the EP&A Act, the SSD application and accompanying information was made publicly available in accordance with the EP&A Regulations for 46 days following the date of first publication (see **Table 3**).

Table 3: Exhibition details

Exhibition/Notification	Format	Dates
Publicly Exhibited	The Department's Pitt Street office, the City of Sydney Council's One Stop Shop and on the Department's website	15 September 2016 to 31 October 2016 (46 days)
Newspaper Notice	Central Courier	14 September 2016
Written Notices	Surrounding landowners, key agencies and City of Sydney Council	15 September 2016 to 31 October 2016

The Department received a total of five submissions in response to the exhibition, including four submissions from public authorities and one submission from the general public. A link to the submissions is provided at **Appendix A**.

4.2 Public Authority Submissions

The Department received public authority submissions from the City of Sydney Council (Council), the Heritage Council of NSW (Heritage Council), the Environment Protection Authority (EPA) and Transport for NSW (TNSW). A summary of these submissions is provided in **Table 4** below.

Table 4: Summary of public authority submissions received during the exhibition.

Heritage Council of NSW (Heritage Council) Heritage Council did not object to the application, however raised concerns with: - the proposed demolition of a section of stairs to provide a new accessible passage way on level 3, which would permanently and adversely alter the aesthetic quality of the space, and should be removed from the proposal; - the proposed new lift core (Lift 36), which requires further design refinement to reduce impacts on the design of the entry to the southern foyer of the JST; and - the proposed new slot windows along the eastern façade for the new office accommodation, which would adversely impact on the eastern façade of the SOH building and should be removed from the proposal. Additionally, the Heritage Council advised: - the proposed new accessible paths of travel and accessible seating within the JST, the new lift core (Lift 31), and the proposed new double escalator, would have limited visual impacts and are considered acceptable; and - the proposed refurbishment work within the entry foyer would retain significant elements, whilst improving furniture, finishes and functionality of the space, and would contribute to the outstanding aesthetic values of the SOH.
City of Sydney Council (Council) Council objected to the application and raised concerns with the level of detail provided in the application, specifically noting: - the proposed new follow spot room at the rear of the JST auditorium, including the proposed change in alignment of the ceiling profile and use of materials; - the proposed new slot windows along the eastern façade of the building for the new office accommodation, which would result in detrimental impacts to the eastern elevation of the SOH, and would be contrary to the policies in the CMP; - the entry foyer refurbishment works, including the proposed palette of colours and materials, which would alter the character of the space; - the proposed new escalator from the vehicle concourse to the entry foyer, which had not been sufficiently justified, and the proposed materiality of the escalators (aluminium) would be inconsistent with the original material palette (precast granite, bronze/brass); and - the proposed installation of the new lift core (Lift 31), requiring the cutting and demolition of three concrete beams, stairs, and alteration of glass walls, resulting in significant visual and physical impacts to the SOH. Additionally, Council advised that it supported the proposed new accessible seating areas in the JST, and recommended that the original 'Curtain of the Sun' tapestry by John Coburn be reinstated in the JST.
Environmental Protection Authority (EPA) EPA did not object to the proposal however made a number of recommendations relating to the management of construction works, including: - implement procedures for identifying and dealing with unexpected contamination on site, including asbestos and lead-based paint materials; - ensure that all demolition, site preparation and construction works likely to be audible at noise sensitive receivers is undertaken during standard construction hours; - justify any proposal to undertake works likely to be audible at noise sensitive receivers outside of standard construction hours, especially night work, which should be restricted to not more than two nights during a single week; - notify noise sensitive receivers of any proposal to undertake works outside of standard construction

hours;

- schedule intra-day respite periods for works predicted to result in exceedances of the 'highly noise affected' noise management level;
- ensure construction vehicles do not arrive or que in nearby surrounding residential areas outside the standard construction hours;
- not dispose of untreated ground water, concrete waste or rinse water on the site or into Sydney Harbour;
- minimise and prevent dust impacts and implement appropriate sediment controls; and
- implement appropriate waste management procedures.

Transport for NSW (TfNSW)

TfNSW did not object to the proposal however requested a condition for the Applicant to prepare a Construction Pedestrian and Traffic Management Plan.

4.3 Public Submission

The Department received one public submission which supported the proposal (although it did not specify which elements of the proposal are supported).

4.4 Response to Submissions

On 9 February 2017, the Applicant lodged its Response to Submissions report (RtS) to address issues raised in submissions. The RtS included minor amendments to the proposal, including:

- deletion of the proposed slot windows along the eastern façade of the building for the new office accommodation;
- minor design amendments to the proposed new follow spot room, in response to issues raised in Council's submission; and
- inclusion of the temporary erection and operation of box office and cloaking facilities on the vehicle concourse (to be used during the construction of the entry foyer refurbishment works).

The RtS was accompanied by amended plans for the office accommodation and follow spot room, an additional plan for the proposed temporary box office and cloaking facilities, supplementary BCA and access reports, a cumulative traffic assessment, and additional details of consultation undertaken with Council and the Heritage Council.

4.5 Agency Submissions on the Response to Submissions

The Department notified Council, Heritage Council, the Commonwealth Department of Environment, and the EPA of the RtS, and made the RtS documents publically available on the Department's website.

The Department received three submissions from public authorities on the RtS, including Council, Heritage Council, and the EPA. A summary of these submissions is provided in **Table 5** below.

Table 5: Summary of public authority submissions received on the RtS.

Heritage Council of NSW (Heritage Council)

Heritage Council provided the following comments:

- the design and location of the proposed new lift core (Lift 36) is considered acceptable;
- while the demolition of stairs on the western side of the JST will adversely affect the aesthetic qualities of the space to some extent, it's acknowledged it will occur only on one side of theatre and will be obstructed from external sight lines; and
- the recommended conditions should require that further details be provided for the proposed works to demolish the section of stairs to accommodate a new accessible passage way, and the temporary box office and cloaking facilities, as part of the Section 60 application under Part 4 of the *Heritage Act 1977*.

City of Sydney Council (Council)
Council maintained its objection to the application on the basis of a lack of information and provided the following comments: - the inclusion of a condition for the interpretation of the original 'Curtain of the Sun' tapestry by John Coburn in the JST is supported by Council (subject to an Interpretation Strategy being prepared detailing the type, location and works associated with the interpretation); - the deletion of the slot windows along the eastern façade of the building is supported, however further information is requested to demonstrate the new office accommodation area would have sufficient light and ventilation; - bronze/brass materials are recommended to be used (where possible) for the proposed new escalator from the vehicle concourse to the entry foyer; and - further details should be provided of the accessibility improvements and impacts on significant heritage fabric.
Environmental Protection Authority (EPA)
EPA maintained its previous comments.

Key issues are further considered in **Section 5** of this report and/or addressed by way of recommended conditions at **Appendix C**.

5. ASSESSMENT

5.1 Considerations under section 79C of the EP&A Act

Table 6 identifies the matters for consideration under section 79(C) of the EP&A Act that apply to SSD. The EIS has been prepared by the Applicant to consider these matters and those matters detailed in the SEARs.

Table 6: Section 79C(1) Matters for Consideration

Section 79C(1) Evaluation	Consideration in this Report
(a)(i) any environmental planning instrument	The Department's consideration of the relevant EPIs is provided in Section 3.6 and Appendix B of this report.
(a)(ii) any proposed instrument	Not applicable.
(a)(iii) any development control plan (not applicable to SSD)	Under clause 11 of the SRD SEPP, development control plans (DCP) do not apply to SSD. However, consideration has been given to the Sydney Harbour Foreshores and Waterways Area DCP at Appendix B .
(a)(iia) any planning agreement	Not applicable.
(a)(iv) the regulations	The development application meets the relevant requirements of the EP&A Regulation, including clause 288 that requires the provisions of the SOH Management Plan be taken into consideration by the consent authority. The procedures relating to development applications (Part 6 of the EP&A Regulation), public participation procedures for SSDs, and Schedule 2 of the EP&A Regulation relating to environmental impact statements have been satisfied.
(a)(v) any coastal zone management plan	Not applicable
(b) the likely impacts of that development	Likely impacts of the development are considered in Section 5 of this report.
(c) the suitability of the site for the development	The proposal forms part of the SOH Building Renewal Program and provides a range of safety, accessibility and venue enhancement works which would benefit both patrons and performers, and support the SOH's function as a world class performing arts centre and tourist attraction. For these reasons, the site is considered to be suitable for the development.

(d) any submissions	Consideration has been given to submissions received in Section 4 of this report. Key issues raised in submissions have been considered further in Section 5 of this report.
(e) the public interest.	The application is considered to be in the public interest as it would improve functionality of the building, improve compliance with modern building accessibility requirements, provide more contemporary entry foyer areas, and support the SOH's function as a world class performing arts centre and tourist attraction.
Biodiversity values exempt if: (a) On biodiversity certified land? (b) Biobanking Statement exists?	Not applicable Not applicable

5.2 Key Assessment Issues

The Department has considered the EIS, the issues raised in submissions, the Applicant's RtS, and issues raised in submissions on the RtS in its assessment of the proposal. The key assessment issue relating to the application is the potential heritage impacts on the SOH and the need for accessibility improvements, which are considered in **Section 5.3** below.

Section 5.4 discusses the other issues that were taken into consideration in the assessment of the application.

5.3 Heritage

The SOH has local, State, National and World Heritage significance requiring careful consideration of the impact of the proposal on this significance. The SOH Management Plan, the CMP and Utzon Design Principles provide the overarching framework for considering the impacts to the heritage significance of the SOH.

The Heritage Impact Statement (HIS) provided a detailed assessment of the potential heritage impacts of the proposed works, having regard to the SOH Management Plan, the CMP and Utzon Design Principles.

The Department has separately considered the potential heritage impacts of the proposed works to the JST, new office accommodation, and entry foyer refurbishment works below.

Works within and adjacent to the Joan Sutherland Theatre

The proposal includes a range of accessibility improvements within and adjacent to the JST which will facilitate the creation of 23 wheelchair seating positions within the theatre, of which eight will be in rows A-C and 15 in rows M-P. The works include a new accessible passageway on level 2, the demolition of a section of stairs to the west of the JST to provide a new accessible passage way on level 3, installation of a new lift (Lift 31) to the north of the JST and a new follow-spot room at the rear of the JST.

The HIS acknowledged the proposed demolition works and creation of new accessible passage ways and lift connections would have substantial impacts on significant spaces and original fabric within the SOH building. However, the HIS identified the functional benefits of the proposal would be substantial, including providing greater access to the JST for those with reduced mobility (many of whom will never have experienced some of these spaces before). The HIS also identified that the proposed new follow-spot room would have moderate but acceptable impacts on the character of the space, and would result in positive impacts to the functionality of the JST. The HIS concludes that the proposed works are consistent with the Utzon Design Principles and the intent of policies in the CMP. Additionally, the HIS concluded that with fine and detailed resolution during the design

development stage (such as the expression and treatment of cuts through the stairs and the expression of materials and finishes), the proposed works would have significant, but ultimately positive impacts, and would not adversely affect the heritage values of the SOH, or the outstanding universal values that underpin its World Heritage Listing.

The Heritage Council initially raised concern with the proposed demolition of the section stairs to create the new accessible passageway on level 3. However, it later acknowledged that the new passageway would only occur on one side of the JST and would be obstructed from external sight lines. The Heritage Council also advised that, should this element be approved, detailed resolution of the design would be undertaken as part of the Applicant's Section 60 Application under Part 4 of the *Heritage Act 1977*.

Council raised concern with the installation of the new lift (Lift 31), including the demolition of beams, stairs and alterations to glass wall elements to enclose the new lift core, and sought further details of the new lift relative to significant heritage fabric (see **Figure 9** below).



Figure 9: Image of proposed new lift core (Lift 31) including demolition works (left) and new lift core (right) (Source: EIS)

Council also initially recommended that the original 'Curtain of the Sun' tapestry by John Coburn (which is a large tapestry previously hung in the JST at the opening of the SOH in 1973, which is currently in storage) be reinstated in its original location. Council later advised that it supported the Applicant's proposed condition to prepare an Interpretation Plan for the 'Curtain of the Sun' tapestry, subject to the Interpretation Plan addressing the type of interpretation, location, estimated installation date, and a schedule of works.

The Department recognises the SOH was designed at a time where the principles of universal and equitable accessibility within the public realm did not exist. The existing pedestrian connection from the Southern to Northern Foyer of the JST is currently via the eastern and western stairs that wrap around the theatre, which created accessibility limitations for people with impaired mobility. The Department also recognises the proposed accessibility upgrades to the JST, including the new lift core and passageways, are integral components to improving the building's compliance with modern building accessibility (National Construction Code and *Disability Discrimination Act 1992 - Disability (Access to Premises — Buildings) Standards 2010*) and WHS requirements and improving both performer and patron accessibility to this world class performance venue.

The Department acknowledges that the proposed works would result in demolition to original building fabric within the SOH, and would alter a number of spaces. In particular, the proposed demolition of stairs and creation of the accessible passageway on level 3 would result in some impacts to the aesthetic qualities of the existing stairs. However, the Department notes the Applicant has explained the provision of a passage way in this location is consistent with the vision and original building design by Jorn Utzon, which envisaged passage ways to the east and west of

the JST (the design was amended after Utzon left the project in 1966, and the passageways were built over). Additionally, the location of the passageway on the eastern side of the stairs has been carefully considered by the Eminent Architects Panel to minimise impacts to original building fabric and spaces, and would be obstructed from external sight lines. The Department also notes that if the level 3 accessible passageway was not constructed, 15 wheelchair seating positions in rows M-P in the JST would not be able to be accessed by persons in a wheelchair. Given the National Construction Code requires 23 wheelchair seating positions in the JST, this would result in a shortfall of 15 spaces. The Department considers this shortfall is substantial and therefore accepts there is significant public benefit in maintaining the 23 spaces as proposed.

The location and design of the proposed new lift core (Lift 31) has also been carefully considered to minimise impacts on original building fabric (minimising the number of beams to be removed) and the materials used are in keeping with the aesthetics of the SOH. Whilst noting Council's request for further details regarding the proposed new lift core (Lift 31), the Applicant will be required to undertake further detailed resolution of the design (such as the treatment of the cut and finish to beams and the stairs, and the interface with the new lift core) as part of the Section 60 Application under Part 4 of the *Heritage Act 1977*. The Department is satisfied that sufficient details of the demolition works and the design of the proposed new lift core (Lift 31) have been provided with the application to inform the Department's assessment, and considers that the further detailed design resolution can be undertaken as part of the required subsequent Section 60 Application under Part 4 of the *Heritage Act 1977*.

The Department notes the proposed new follow spot room is intended to provide operators of the spot lights with an improved working space, and to correct the angles of the spotlights to reach the back of stage in the JST. The HIS identifies the location of the proposed new follow spot room is at the rear of the JST, is painted matt black and the proposed works will be largely unnoticed and result in a moderate and acceptable impact on the character of the JST.

Council initially raised concern with the proposed alterations to the alignment of the ceiling profile and use of materials for the proposed follow spot room. However, the Applicant revised the design as part of the RtS, and no further issues were raised by Council in response to the revised design.

The Department notes the proposed follow spot room is discreetly located at the rear ceiling of the JST, and the proposed works would be largely unnoticed. The Department is satisfied the design of the follow spot room has been amended to address Council's concerns, that it would not result in any significant impacts to the spaces or building fabric within the SOH, and that it would provide functional benefits to the JST, including improved stage lighting for performances and events held in the JST.

The Department has considered the relevant provisions of the SOH Management Plan, the CMP and Utzon Design Principles in its assessment of the proposal. The CMP includes a Statement of Significance that identifies and defines the values of the SOH, and includes a range of policies framed to retain these values.

The Department is satisfied the proposed works would not diminish the values identified in the Statement of Significance, and considers the works to be consistent with key policies in the CMP, including *Policy 18.1 Access for people with disabilities and elderly – escalators and lifts*, *Policy 26.1 Character and Treatment of Internal Spaces – Internal Adaptation and Alteration*, *Policy 38.1 Care of Fabric – Removal or Alteration of Fabric*. The Department is satisfied the proposed works to the JST are consistent with the Utzon Design Principles, particularly the principles for the need to adjust to changing standards (such as modern building accessibility standards), and the principle for disabled access.

The Department therefore considers the proposed works to the JST are acceptable for the following reasons:

- the works are consistent with the CMP and the Utzon Design Principles;
- the works are supported by the Heritage Council and Eminent Architects Panel;
- while the demolition of part of the stairs on level 3 for the new accessible passageway would result in impacts to their aesthetic value, the works would provide greater access to the JST for those with reduced mobility, including between its Southern and Northern Foyers;
- the majority of the works have been carefully considered to minimise potential impacts on spaces and original fabric of the SOH building;
- further resolution of the design would be undertaken as part of the Section 60 Application under Part 4 of the *Heritage Act 1977*; and
- the interpretation of the 'Curtain of the Sun' tapestry is considered acceptable.

The Department therefore supports the proposed works to the JST, and recommends they be approved, subject to the recommended conditions.

Office Accommodation

The proposal includes the provision of a new office accommodation area over two levels, including open plan offices to house 43 work stations, two meeting rooms, kitchenette and toilets (see **Figures 5 and 6**). The office accommodation area would be located in the current winch power and dimmer rooms in the JST, which will become available following the demolition and removal of these facilities under the Theatre Machinery Project (SSD 7639) approved on 25 October 2016.

The Heritage Council and Council originally raised concerns with the provision of two new slot windows along the eastern façade of the SOH building to provide natural light and amenity for the office accommodation. These concerns were addressed in the RtS and the proposed slot windows were subsequently removed from the proposal. Council advised it supports the removal of the slot windows although has concerns about the ventilation and lighting in the office accommodation area. The Applicant has committed to providing alternative lighting and ventilation to the office accommodation area in accordance with the National Construction Code requirements. No other issues were raised in submissions regarding the office accommodation.

The HIS identifies the proposed new office accommodation (as now proposed) would require only minor alterations to the SOH building and would result in low impacts to the form, fabric and structural systems of the SOH.

The Department is satisfied the now proposed new office accommodation would have a low impact on spaces and fabric within the SOH building. The works are consistent with relevant policies in the CMP and the Utzon Design Principles, and would not adversely affect the heritage values of the SOH, or the outstanding universal values that underpin its World Heritage Listing.

The Department therefore concludes the proposed new office accommodation works are acceptable, and recommends they be approved, subject to the recommended conditions.

Entry Foyer Refurbishment

The proposal includes refurbishment works to the entry foyer, including reconfiguration of entry foyer facilities, updated materials and finishes, provision of a new double escalator from the vehicle concourse to the entry foyer, and provision of a new lift core (Lift 36) providing access between the ground floor, entry foyer, and the southern foyer of the JST.

The HIS identifies the proposed entry foyer refurbishment works would result in high but acceptable impacts on significant spaces and fabric through the removal of the existing fitout, replacement with new fitout and furnishings and reconfiguration to improve amenity and functionality, and provision of lift access to the southern foyers of the JST. The removal of existing fitout materials to create the Utzon bar and lounge has a low impact and removes detracting elements and will provide patrons

of the SOH the opportunity to sit and rest before and after performances. This area is not intended to be used by the general public.

The HIS also identifies the proposed replacement of the existing stairs with a new double escalator would result in high, but acceptable impacts on fabric, with a positive impact on accessibility and functionality. The HIS identified the proposed new lift core (Lift 36) would result in moderate and acceptable impacts. The layout of the proposed entry foyer refurbishment works are shown in **Figure 10** below.

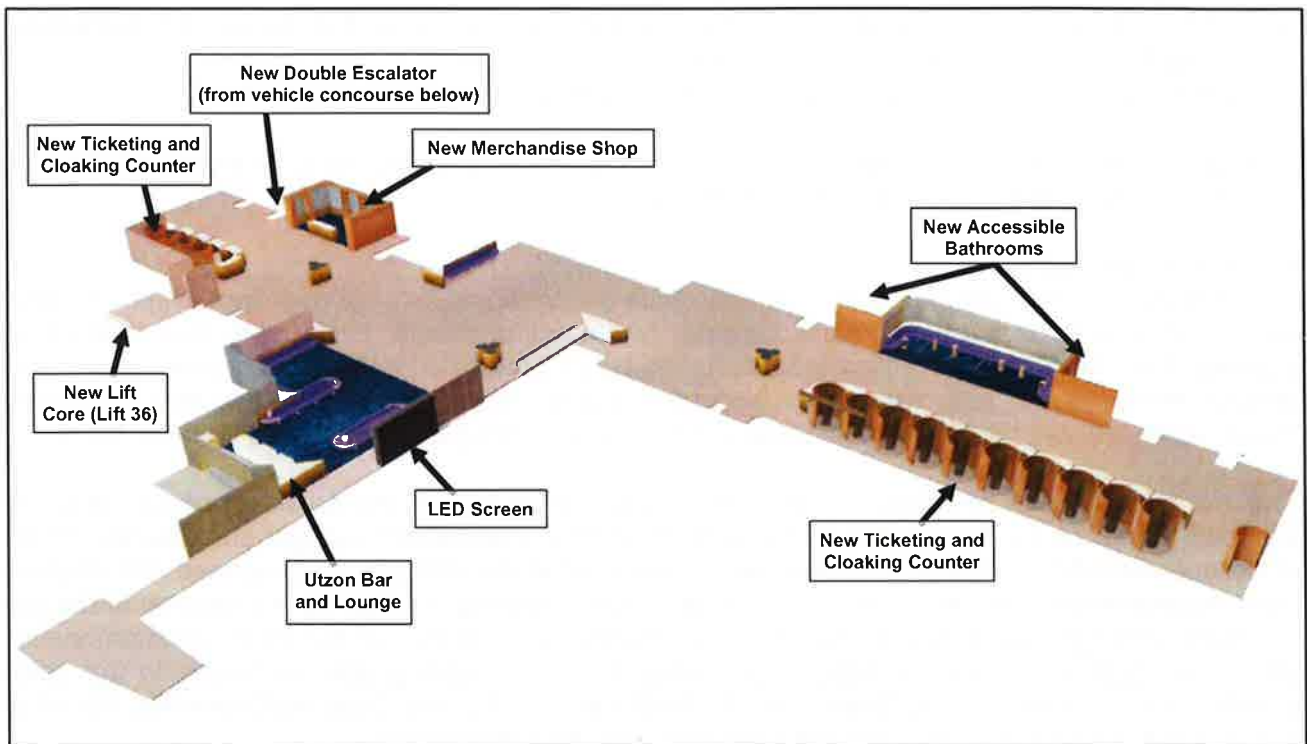


Figure 10: Layout of proposed entry foyer refurbishment (Source: EIS)

The Heritage Council supports the proposed refurbishment work within the entry foyer, advising they would retain significant elements, improve furniture, finishes and functionality of the space, and would contribute to the outstanding aesthetic values of the SOH. Additionally, the Heritage Council advised the proposed new double escalator would have limited visual impacts and is considered acceptable. The Heritage Council initially raised concern with the proposed new lift core (Lift 36). However, it later advised the materials proposed (bronze/glazing materials) will match the existing adjacent materials of the southern foyer of the JST, and the lift will sit back from the existing bronze transom, and is therefore considered acceptable. The proposed new lift core (Lift 36) is shown in **Figure 11** below.

Council raised concern with the proposed replacement of the existing stairs with a new double escalator, advising the proposed aluminium materiality of the escalators would be inconsistent with the original bronze/brass material palette, and would detract from the character of the space.

In response to Council's concerns, the Applicant undertook further consultation with the Eminent Architects Panel (EAP) regarding the proposed materials for the escalators. The EAP determined the proposed materials for the escalators should match the precedent set with the existing six escalators in the SOH building, which have aluminium finishes. The EAP therefore did not recommend changing the proposed materials for the escalators in response to Council's concerns.

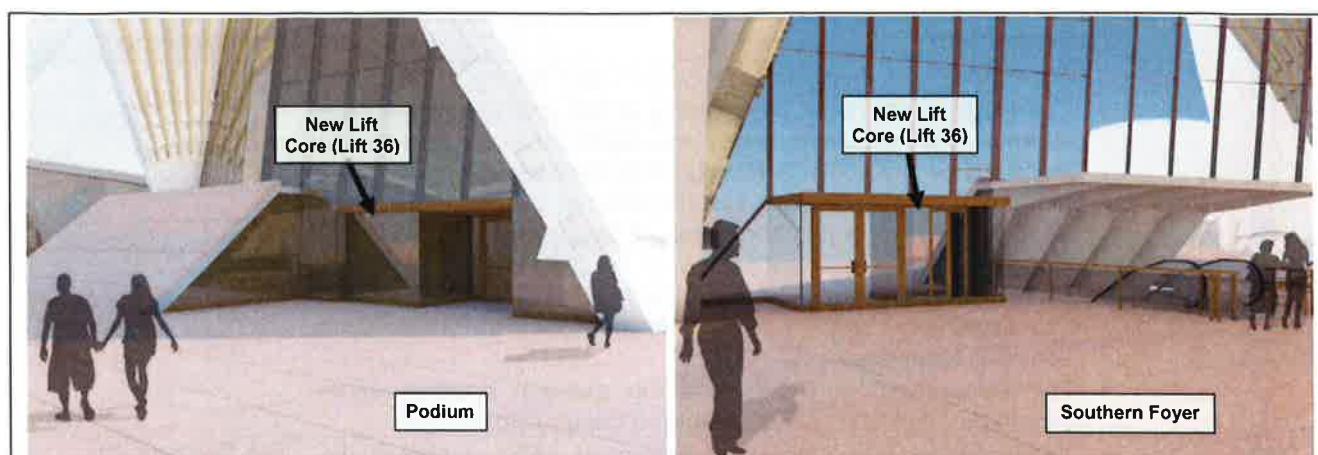


Figure 11: Images of proposed new lift core (Lift 36) on Level 2 (left and right) (Source: EIS)

The Department recognises the proposed entry foyer refurbishment works would provide more contemporary customer focussed entry and ticketing facilities as well as improved accessibility from the vehicle concourse, through the entry foyer and into the southern foyers of the JST. It is also noted that the choice of materials and finishes used has been carefully considered to relate to the original palette of materials in surrounding spaces and echo the materials used JST.

The Department is satisfied that the proposed entry foyer refurbishment works are generally consistent with relevant policies in the CMP and the Utzon Design Principles, and would not adversely affect the local, State, National heritage values of the SOH, or the outstanding universal values that underpin its World Heritage Listing. The Department is satisfied that the proposed aluminium materials for the escalators are acceptable, and notes that the Applicant will be required to undertake further detailed resolution of the design (including final treatment of materiality of the escalators) as part of the Section 60 Application under Part 4 of the *Heritage Act 1977*.

The Department therefore concludes the proposed entry foyer refurbishment works are acceptable, and recommends they be approved, subject to the recommended conditions.

5.4 Other issues

Table 6: Assessment of Other Issues

Issue	Consideration	Recommendation
Construction Hours	- The Applicant has sought approval to undertake the construction works on a 24-hour, 7-days-a-week basis in order to minimise disruption to the operation of the SOH; - The EIS has outlined the following work program: 6 pm to 11:30 pm – quieter activities that would be compatible with live performances; 11:30 pm to 10:30 am – works which would be disruptive to the operations of the SOH; and 10:30 am to 6 pm – general construction works and no major noise generating activities. - The Applicant has committed to preparing a Noise and Vibration Management Plan and monitor noise during construction; - EPA considers the Applicant should ensure all demolition, site preparation and construction works likely to be audible at noise sensitive receivers should be undertaken during standard construction hours, as far as practicable, and that any night work should be restricted to not more than two nights during a single week; - EPA also recommends the Applicant notify any noise sensitive receivers who will be affected by works proposed to be	The Department has recommended a condition requiring the Applicant prepare a Construction Noise and Vibration Management Plan outlining management and mitigation measures to minimise noise and vibration impacts on nearby receivers.

Issue	Consideration	Recommendation
	undertaken outside of standard construction hours; - The Department notes the majority of the proposed works are internal and contained within the SOH building, and would therefore be inaudible to surrounding receivers. On this basis, the Department considers that the internal building works can be undertaken on a 24 hours a day, 7 days a week basis. - However, the Department notes that the proposal also includes some external building works (including the installation of lifts and escalators) which could result in impacts to surrounding sensitive receivers. - The Department considers that the external building works should be undertaken within standard construction hours.	
Traffic	- The proposal will generate construction traffic, however the construction works will largely occur when the JST is proposed to close for a 7-8 month period, resulting in an overall reduction in traffic generated by the Sydney Opera House; - when the JST is reopened, the proposal is predicted to generate up to 26 vehicle movements, which can be accommodated within the existing road capacity; - trucks would utilise Macquarie Street to access the existing underground loading dock; - the majority of construction vehicle movements would occur during standard construction hours to minimise any potential noise and traffic impacts on the residences to the south of the SOH; and - the Department considers the proposed construction vehicle movements would have minimal impact on the amenity of the nearby residences and a negligible impact on the performance of the surrounding road network.	The Department has recommended a condition requiring the Applicant to prepare an Access and Traffic Management Plan outlining management and mitigation measures to minimise amenity impacts on nearby receivers, particularly truck movements, truck parking and noise mitigation measures.
Waste Management	- Waste would be recycled where possible and a Waste Management Plan would be prepared in accordance with the <i>NSW Waste Avoidance and Resource Recovery Strategy 2014-2021</i>; - asbestos would be removed in accordance with the SOH Asbestos Risk Management Plan, SOH Hazardous Materials Action Plan and relevant Australian Standards; and - the Department considers the existing SOH Management Plans would ensure all waste be removed appropriately.	The Department has recommended a condition requiring the Applicant to prepare a Waste Management Plan to ensure any hazardous waste is removed in accordance with the relevant SOH Management Plans.
Access and Pedestrian Safety	- All deliveries and removal of materials would be via the underground loading dock (accessed from Macquarie Street). - public areas affected by the works would be enclosed by construction hoardings and sealed off from public access; and - the Department considers the development would not have an adverse impact on pedestrian movement and access to/from the SOH.	No recommendation required.

6. CONCLUSION

The Department has assessed the merits of the proposal taking into consideration the issues raised in all submissions, including the objections and concerns raised by Council, and is satisfied the impacts have been satisfactorily addressed within the applicant's EIS, RtS and the Department's recommended conditions.

The Department notes the proposed works are a key and vital component of the Sydney Opera House Building Renewal Program and would provide accessibility enhancements to the JST, including wheelchair accessible seating, equitable paths of travel, accessible toilet facilities and accessibility upgrades for performers. The proposed refurbishment works in the Entry Foyer would also provide accessibility improvements and more contemporary entry and ticketing facilities.

The Department acknowledges the works would result in impacts on spaces and fabric within the SOH. However, they have been sensitively designed as to balance the need to both minimise these impacts while providing necessary functional and accessibility benefits to the operation of the SOH and meeting contemporary operational, accessibility and WHS standards.

The Department is satisfied the proposed works are consistent with relevant policies in the CMP and the Utzon Design Principles, and would not adversely affect the local, State, National heritage values of the SOH, or the outstanding universal values that underpin its World Heritage Listing.

To ensure the proposed works minimise impacts on fabric within the SOH and minimise impacts during construction, the Department has recommended the following conditions:

- a nominated heritage consultant is to be engaged to oversee demolition works and provide advice to tradespeople undertaking the work during the construction period;
- an Interpretation Strategy is to be prepared for the original 'Curtain of the Sun' tapestry by John Coburn; and
- a Construction Noise Management Plan is to be prepared in accordance with the *Interim Construction Noise Guideline, July 2009*, to mitigate and manage potential construction noise impacts on nearby sensitive receivers.

The Department's assessment concludes the proposal would not result in any unacceptable heritage impacts, and notes the Applicant will be required to obtain further approval for the proposed works from the Heritage Council under Part 4 of the *Heritage Act 1977* and the Commonwealth under the EPBC Act. The Department recommends the application be approved, subject to the conditions outlined in the development consent.

7. RECOMMENDATION

It is recommended that the Minister for Planning:

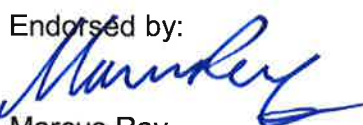
- a) **consider** the findings and recommendations of this report;
- b) **grant consent** to the State significant development application (SSD 7665), subject to conditions, under section 89E of the *Environmental Planning and Assessment Act 1979*; and
- c) **sign** the attached development consent at **Appendix C**.

Prepared by: Ben Eveleigh (BL)
Key Sites Assessments

Endorsed by:


Anthea Sargeant 12/5/17
Executive Director
Key Sites and Industry Assessments

Endorsed by:


Marcus Ray
Deputy Secretary
Planning Services 12/05/2017

Approved by:


Anthony Roberts
Minister for Planning

APPENDIX A SUPPORTING INFORMATION

The following documents and information supporting this assessment can be found on the Department of Planning and Environment's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7665

1. The Secretary's Environmental Assessment Requirements (SEARs)
2. Environmental Impact Statement
3. Submissions
4. Applicant's Response to Submissions
5. Submissions in response to the Applicant's Response to Submissions

APPENDIX B CONSIDERATION OF ENVIRONMENTAL PLANNING INSTRUMENTS

Relevant EPIs and DCPs include:

- State Environmental Planning Policy (State and Regional Development) 2011;
- State Environmental Planning Policy (State Significant Precincts) 2005;
- State Environmental Planning Policy 55 – Remediation of Land;
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005;
- Sydney Harbour Foreshores Area Development Control Plan 2005; and
- Sydney Local Environmental Plan 2012.

Note: Clauses within the above EPIs and DCPs that are not relevant to the application or have been considered in Section 5 of this report have been omitted from the below assessment.

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

The proposal is State significant development pursuant to clause 1, Schedule 2 of the SRD SEPP, as it is development within the SOH site. Therefore, the Minister for Planning is the consent authority for the proposed development.

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

The SOH is listed as a State Significant Precinct under Part 1 of Schedule 3 of the SSP SEPP, which lists a range of exempt development provisions which apply to the SOH.

As the proposal involves safety, accessibility and venue enhancement works to the JST, new office accommodation, and entry foyer refurbishment works, which do not fall within the exempt development provisions, the proposal therefore requires development consent.

The Department's assessment concludes the proposed works will not result in adverse heritage impacts to the SOH and that the proposal is consistent with the key aims of the SSP SEPP.

State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55)

SEPP 55 aims to provide a State wide approach to the remediation of contaminated land. Clause 7 of SEPP 55 prevents a consent authority from issuing development consent unless it has considered:

- whether the subject site is contaminated;
- whether a contaminated site is suitable for its proposed use in its current state, or will be suitable following remediation; and
- whether it is satisfied that the site will be remediated before the land is used for the purpose proposed under the application.

No contamination issues have been identified and no remediation works are proposed as part of the application. All proposed works are generally located within the existing SOH building, and the site is considered suitable for the proposed ongoing uses outlined in the application. Additionally, the Department has recommended conditions for the Applicant to implement procedures for identifying and dealing with unexpected contamination on site, including asbestos and lead based paint materials. The Department therefore concludes that the proposal is consistent with the requirements of SEPP 55.

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

SREP applies to all land within the Sydney Harbour Catchment, as shown on the Sydney Harbour Catchment Map.

The site is within the defined Foreshores and Waterways Area and is also defined as a Strategic Foreshore Site (Sheet 1 of the City Foreshore Area Map).

Matters for Consideration

Clause 20 of the SREP identifies that the following matters are required to be considered by consent authorities before granting consent to development under Part 4 of the EP&A Act:

- clause 21 - Biodiversity, ecology and environmental protection;
- clause 22 - Public access to, and use of, foreshores and waterways;
- clause 23 - Maintenance of a working harbour;
- clause 24 - Interrelationship of waterway and foreshore uses;
- clause 25 - Foreshore and waterways scenic quality;
- clause 26 - Maintenance, protection and enhancement of views; and
- clause 27 - Boat storage facilities.

The development is consistent with the relevant matters for considerations as it will maintain public access to and along the foreshore and will maintain the unique scenic and visual quality of qualities of Sydney Harbour and its islands, foreshores and tributaries. The development will maintain views to and from Sydney Harbour, and to and from public places, landmarks and heritage items. Subject to the recommended conditions, the Department is also satisfied that development would not have any impact on the biodiversity, ecology or environment of Sydney Harbour.

Foreshores and Waterways Planning and Development Advisory Committee

Under clause 29(3) of the SREP, the Department is not required to refer the proposal to the Foreshores and Waterways Planning and Development Advisory Committee, as the proposed works consists of alterations or additions to the existing SOH building. The Department is satisfied that the works do not, to any significant extent, increase the scale, size or intensity of use of the SOH building.

Strategic Foreshore Sites

The site is identified as a 'Strategic Foreshore Site' on 'Sheet 1 - City Foreshores Area' of the Strategic Foreshore Sites Map. Clause 41 of the SREP states that development consent must not be granted for the carrying out of development on a strategic foreshore site unless there is a master plan for the site, and the consent authority has taken the master plan into consideration. The Department considers that the proposal is generally consistent with the relevant land use and general master planning provisions contained within SOH Management Plan, the CMP and the Utzon Design Principles as identified in **Section 3.12** of this report.

Sydney Opera House

The site is located within the Sydney Opera House Buffer Zone. Clause 58B of SREP outlines the matters to be taken into consideration for development within the Sydney Opera House Buffer Zone to protect the World Heritage Value of the site. The proposal largely comprises internal building works and would not result in any significant impacts on external view of the SOH.

Sydney Harbour Foreshores Area Development Control Plan 2005

Consideration of relevant sections of the DCP is provided below:

Ecological Assessment

Part 2 of the DCP includes provisions for the determination of the conservation status of identified ecological communities, and a statement of intent and performance criteria to be applied to development within and adjoining ecological communities.

The site is identified as a landmark on Map 11 of the Ecological Communities and Landscape Characters, and whilst the site does not contain any terrestrial or aquatic ecological communities, the Map indicates the site adjoins grassland and woodland terrestrial ecological communities within the Royal Botanic Gardens. The Department is satisfied that the proposal would not result in any impacts to these adjoining terrestrial ecological communities given the proposal largely comprises internal building works to the SOH, and therefore the proposal is consistent with the relevant performance criteria.

Landscape Assessment

Part 3 of the DCP includes provisions for the consideration of landscape character types determination and a statement of intent and performance criteria to applied to development within and adjoining different landscape character types.

The site is identified as a landmark on Map 11 of the Ecological Communities and Landscape Characters, and the Map indicates that the 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 because it would not impact on any natural features of the foreshore including vegetation and rock outcrops, or impact on any major points and entrances to the harbour.

Design Guidelines for Water-Based and Land/Water Interface Development, and Land-Based Developments

Part 4 and Part 5 of the DCP includes provisions for specific types of development that are water-based or located at the land/water interface or land based.

The Department notes that the proposal largely comprises internal building works to the SOH, and that public access along the foreshore would be maintained. Accordingly, the Department is satisfied that the proposal is consistent with relevant provisions of Part 4 and Part 5 of the DCP.

Sydney Local Environmental Plan 2012 (Sydney LEP)

Consideration of relevant provisions of the Sydney LEP is provided below:

Zoning

Under the Sydney LEP, the site is zoned B8 Metropolitan Centre. The objective of the zone is to recognise and provide business, office, retail, entertainment and tourist premises.

As the proposed works relate to development for the purposes of an entertainment facility they are permissible with consent in the B8 Metropolitan Zone.

Heritage

Clause 5.10 of Sydney LEP relates to heritage conservation, and includes an objective to conserve the heritage significance of heritage items, including associated fabric, settings and views.

The Department is satisfied the proposal is consistent with relevant provisions in clause 5.10 of Sydney LEP, and has assessed the heritage impacts of the proposal in **Section 5.1** of this report. The Department's assessment concludes the 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 Design Principles.

Design Excellence

Clause 6.21 of Sydney LEP relates to design excellence and states that development consent must not be granted to development unless, in the opinion of the consent authority, the proposed development exhibits design excellence. In considering whether development to which this clause applies exhibits design excellence, the Department must have regard to a range of matters in Clause 6.21(4).

The Department is notes the proposed works are largely internal building works and is satisfied that the standard of design, materials and finishes of the proposed works are of a high standard, and have been approved by the SOH Eminent Architects Panel, Conservation Council and Heritage Architect.

Clause 6.21(5) of Sydney LEP also states that consent cannot be granted for certain development unless a competitive design process has been held. However, under Clause 6.21(6), a competitive design process is not required if the consent authority is satisfied that the proposal only involves alterations and additions to an existing building, and does not significantly alter any aspect of the building when viewed from public places.

As the proposal the proposal only involves alterations and additions to the existing SOH building, and would not significantly alter any aspect of the building when viewed from surrounding public places, it is considered that a competitive design process is unreasonable or unnecessary in the circumstances.

Foreshore Access

Clause 7.11 of Sydney LEP relates to foreshore access, and requires consideration of whether development would encourage public access along the foreshore and links with existing and proposed open space.

The Department is satisfied that the proposal would retain continuous public access along the foreshore and to the Royal Botanic Gardens.

APPENDIX C DEVELOPMENT CONSENT
