



APPROVAL

Sydney Opera House Building Renewal Program – Concert Hall and associated works, NSW (EPBC 2017/7955)

This decision is made under sections 130(1) and 133(1) of the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*. Note that section 134(1A) of the **EPBC Act** applies to this approval, which provides in general terms that if the approval holder authorises another person to undertake any part of the action, the approval holder must take all reasonable steps to ensure that the other person is informed of any conditions attached to this approval, and that the other person complies with any such condition.

Details

Person to whom the approval is granted (approval holder)	Sydney Opera House Trust
ABN of approval holder	69 712 101 035
Action	To undertake various projects relating to the Concert Hall (excluding Rehearsal Rooms 1 and 2) and Creative Learning Centre of the Sydney Opera House, NSW. [See EPBC Act referral 2017/7955 and requests for variations accepted on 24 August 2017 and 13 June 2018].

Approval decision

My decisions on whether or not to approve the taking of the action for the purposes of each controlling provision for the action are as follows.

Controlling Provisions

World Heritage values of a World Heritage property	
Section 12	Approve
Section 15A	Approve
National Heritage values of a National heritage place	
Section 15B	Approve
Section 15C	Approve

Period for which the approval has effect

This approval has effect until 5 February 2025.

Decision-maker***Name and position***

Louise Vickery
Assistant Secretary
Environment Approvals and Wildlife Trade Branch
Department of the Environment and Energy

Signature

Date of decision

21 / 01 / 2020

Conditions of approval

This approval is subject to the conditions under the EPBC Act as set out in ANNEXURE A.

ANNEXURE A – CONDITIONS OF APPROVAL

Part A – Conditions specific to the action

1. To minimise the impacts of the action on **protected matters**, the approval holder must comply with conditions A25, B17-19, B24-B25, B29, C16-C17, C38, D4 and E7 of the **NSW development consent**, as in force or existing from time to time, where those conditions relate to avoiding, mitigating, offsetting, managing, recording, or reporting on impacts to **protected matters**.
2. To minimise the impacts of the action on **protected matters**, the approval holder must notify the **Department** in writing of any proposed changes to the **NSW development consent** for which condition 1 applies within 10 **business days** of such a change being approved by the **NSW Government**.
3. To mitigate the impacts of the action on **protected matters**, the approval holder must, during **construction**:
 - i. Display information about the evolution of the design and fabric of the building as a result of the action, in publicly accessible areas.
 - ii. Provide for permanent information accessible through the Sydney Opera House **website** as an online archival record of the building and the renewal program.
4. To manage the impacts of the action on **protected matters**, the approval holder must provide copies of the documents required by conditions A25, B19, B25, B29, D4, and E7 of the **NSW development consent** to the **Department** for information.

Part B – Standard administrative conditions

Notification of date of commencement of the action

5. The approval holder must notify the **Department** in writing of the date of **commencement of the action** within 10 **business days** after the date of **commencement of the action**.

Compliance records

6. The approval holder must maintain accurate and complete **compliance records**.
7. If the **Department** makes a request in writing, the approval holder must provide electronic copies of **compliance records** to the **Department** within the timeframe specified in the request.

Note: **Compliance records** may be subject to audit by the **Department** or an independent auditor in accordance with section 458 of the **EPBC Act**, and or used to verify compliance with the conditions. Summaries of the result of an audit may be published on the **Department's** website or through the general media.

Annual compliance reporting

8. The approval holder must prepare a **compliance report** for each 12 month period following the date of **commencement of the action**, or otherwise in accordance with an annual date that has been agreed to in writing by the **Minister**. The approval holder must:
 - a. publish each **compliance report** on the **website** within 60 **business days** following the relevant 12 month period;
 - b. notify the **Department** by email that a **compliance report** has been published on the **website** and provide the weblink for the **compliance report** within five **business days** of the date of publication;
 - c. keep all **compliance reports** publicly available on the **website** until this approval expires;
 - d. exclude or redact **sensitive ecological data** from **compliance reports** published on the **website**; and

- e. where any **sensitive ecological data** has been excluded from the version published, submit the full **compliance report** to the **Department** within 5 **business days** of publication.

Note: Compliance reports may be published on the **Department's** website.

Reporting non-compliance

9. The approval holder must notify the **Department** in writing of any: **incident**; non-compliance with the conditions; or non-compliance with the commitments made in **plans**. The notification must be given as soon as practicable, and no later than two **business days** after becoming aware of the **incident** or non-compliance. The notification must specify:
 - a. any condition which is or may be in breach;
 - b. a short description of the **incident** and/or non-compliance; and
 - c. the location (including co-ordinates), date, and time of the **incident** and/or non-compliance. In the event the exact information cannot be provided, provide the best information available.
10. The approval holder must provide to the **Department** the details of any **incident** or non-compliance with the conditions or commitments made in **plans** as soon as practicable and no later than 10 **business days** after becoming aware of the **incident** or non-compliance, specifying:
 - a. any corrective action or investigation which the approval holder has already taken or intends to take in the immediate future;
 - b. the potential impacts of the **incident** or non-compliance; and
 - c. the method and timing of any remedial action that will be undertaken by the approval holder.

Independent audit

11. The approval holder must ensure that **independent audits** of compliance with the conditions are conducted as requested in writing by the **Minister**.
12. For each **independent audit**, the approval holder must:
 - a. provide the name and qualifications of the independent auditor and the draft audit criteria to the **Department**;
 - b. only commence the **independent audit** once the audit criteria have been approved in writing by the **Department**; and
 - c. submit an audit report to the **Department** within the timeframe specified in the approved audit criteria.
13. The approval holder must publish the audit report on the **website** within 10 **business days** of receiving the **Department's** approval of the audit report and keep the audit report published on the **website** until the end date of this approval.

Completion of the action

14. Within 30 days after the **completion of the action**, the approval holder must notify the **Department** in writing and provide **completion data**.

Part C - Definitions

In these conditions, except where contrary intention is expressed, the following definitions are used:

Business day means a day that is not a Saturday, a Sunday or a public holiday in the state or territory of the action.

Commencement of the action means the first instance of any specified activity associated with the action including **construction** of any infrastructure. **Commencement of the action** does not include minor physical disturbance necessary to:

- i. install signage and /or temporary fencing to prevent unapproved use of the project area; and
- ii. install temporary site facilities for persons undertaking pre-commencement activities so long as these are located where they have no impact on the **protected matters**.

Completion data means an environmental report clearly detailing how the conditions of this approval have been met.

Completion of the action means all specified activities associated with the action have permanently ceased.

Compliance records means all documentation or other material in whatever form required to demonstrate compliance with the conditions of approval in the approval holder's possession or that are within the approval holder's power to obtain lawfully.

Compliance reports means written reports:

- i. providing accurate and complete details of compliance, **incidents**, and non-compliance with the conditions; and
- ii. consistent with the **Department's Annual Compliance Report Guidelines** (2014).

Construction means the erection of a building or structure that is or is to be fixed to the ground and wholly or partially fabricated on-site; the alteration, maintenance, repair or demolition of any building or structure; preliminary site preparation work which involves breaking of the ground (including pile driving); the laying of pipes and other prefabricated materials in the ground, and any associated excavation work; but excluding the installation of temporary fences and signage.

Department means the Australian Government agency responsible for administering the **EPBC Act**.

EPBC Act means the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).

Incident means any event which has the potential to, or does, impact on any **protected matter(s)**.

Independent audit: means an audit conducted by an independent and **suitably qualified person** as detailed in the *Environment Protection and Biodiversity Conservation Act 1999 Independent Audit and Audit Report Guidelines* (2019).

Minister means the Australian Government Minister administering the **EPBC Act** including any delegate thereof.

NSW development consent means the conditions of consent for project SSD 8663 approved on 12 December 2019 under the *Environmental Planning and Assessment Act 1979* (NSW).

NSW Government means the relevant NSW agency responsible for administering the *Environmental Planning and Assessment Act 1979* (NSW).

Protected matters means the heritage values of the Sydney Opera House, the World Heritage property and National Heritage place protected under the provisions under Part 3 of the **EPBC Act** for which this approval has effect.

Suitably qualified person means a person who has professional qualifications, training, skills and/or experience related to the nominated subject matter and can give authoritative independent assessment, advice and analysis on performance relative to the subject matter using the relevant protocols, standards, methods and/or literature.

Website means a set of related web pages located under a single domain name attributed to the approval holder and available to the public.

