

**ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979**

**DETERMINATION OF DEVELOPMENT APPLICATION NO. 43-2-2004**

**(FILE NO. S04/00449 PT 1)**

**UPGRADE AND REFURBISHMENT OF WESTERN BROADWALK AND  
WESTERN FOYER, INCLUDING A NEW LOGGIA, NEW FRAMED OPENINGS TO  
THE WESTERN PODIUM WALLS, UNIFIED FOYER SPACE AND LIFT ACCESS  
FROM THE LOWER CONCOURSE, PODIUM AND BOX OFFICE FOYER LEVELS.**

I, the Minister for Infrastructure and Planning, pursuant to Section 80 (1) (a) of the *Environmental Planning & Assessment Act, 1979*, and clause 10 of State Environmental Planning Policy No 56, Sydney Harbour and its Foreshores, determine the development application referred to in the attached Schedule 1, by granting consent to the application subject to the conditions of consent in the attached Schedule 2.

The reasons for the imposition of conditions are:

- (1) To ensure additions to the Sydney Opera House are sympathetic to and compatible with its existing heritage fabric;
- (2) To ensure adequate access and facilities are provided for people with disabilities;
- (3) To protect the environment and amenity of the locality while construction works are in progress.



Craig Knowles MP  
Minister for Infrastructure and Planning  
Minister for Natural Resources

Sydney,

29/6

2004

**SCHEDULE 1****PART A—TABLE**

<b>Application made by:</b>	Sydney Opera House Trust Bennalong Point, Sydney
<b>Application made to:</b>	Minister for Infrastructure and Planning
<b>Development Application:</b>	No. 43-2-2004
<b>On land comprising:</b>	Sydney Opera House Bennalong Point, Sydney
<b>For the carrying out of:</b>	Upgrade and refurbishment of Western Broadwalk and Western Foyer, including a new loggia, new framed openings to the western podium walls, unified foyer space and lift access from the lower concourse, podium and box office foyer levels
<b>Estimated Cost of Works</b>	\$21,983,000
<b>Type of development:</b>	State Significant Development
<b>S.119 Public inquiry held:</b>	No
<b>Approval Body / Bodies:</b>	Not Integrated
<b>BCA building class:</b>	9B
<b>Determination made on:</b>	
<b>Determination:</b>	A development consent is granted subject to the conditions in the attached Schedule 2.
<b>Date of commencement of consent:</b>	This development consent commences on the date identified in the accompanying letter.
<b>Date consent is liable to lapse</b>	This consent will lapse 5 years from the date of commencement of consent, unless: <ul style="list-style-type: none"> <li>▪ a shorter period of time is specified by the Regulations or a condition in Schedule 2, or</li> <li>▪ the development has substantially commenced.</li> </ul>

**PART B—NOTES RELATING TO THE DETERMINATION OF DA NO. 414-9-2003*****Responsibility for other approvals / agreements***

The applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

***Appeals***

The applicant has the right to appeal to the Land and Environment Court under Section 97 of the *Environmental Planning and Assessment Act, 1979*. The right to appeal is only valid:

- (1) for a development application, within 12 months after the date on which the applicant received this notice, or
- (2) for a modification to the consent, within 3 months after the date on which the application received this notice.

**Appeals—Third Party**

For designated development, a third party has the right to appeal to the Land and Environment Court on the merits of this decision under Section 98 of the *Environmental Planning and Assessment Act, 1979*. The right to appeal is only available within 28 days of the date of commencement of this consent.

A third party right to appeal to this development consent is available under Section 123, subject to Section 101, of the *Environmental Planning and Assessment Act, 1979*.

**Legal notices**

Any advice or notice to the consent authority shall be served on the Director-General.

**PART C—DEFINITIONS**

In this consent,

**Act** means the *Environmental Planning and Assessment Act, 1979* (as amended).

**Applicant** means Sydney Opera House Trust or any party acting upon this consent.

**BCA** means the Building Code of Australia.

**Certifying Authority** has the same meaning as Part 4A of the Act.

**Council** means City of Sydney Council

**DA No. 43-2-2004** means the development application and supporting documentation submitted by the applicant on 18 February 2004.

**Department** means the Department of Infrastructure, Planning and Natural Resources or its successors.

**Director-General** means the Director-General of the Department.

**Minister** means the Minister for Infrastructure and Planning.

**PCA** means a Principal Certifying Authority and has the same meaning as Part 4A of the Act.

**Regulations** means the *Environmental Planning and Assessment Regulations, 2000* (as amended).



## SCHEDULE 2

### CONDITIONS OF CONSENT

#### DEVELOPMENT APPLICATION NO. 43-2-2004

#### ADMINISTRATIVE CONDITIONS

##### 1. Development Description

Development consent is granted only to carrying out the development described in detail below:

Upgrade and refurbishment of the Western Broadwalk and Western Foyer space, involving a new external loggia, new framed openings to the western podium walls, unified foyer space and lift access from the lower concourse, podium and box office foyer levels.

##### 2. Development in Accordance with Plans

The development shall be generally in accordance with development application number DA 43-2-2003 submitted by the applicant on 18 February 2004, and in accordance with the supporting documentation submitted with that application, including, but not limited to, the following:

Statement of Environmental Effects for Alterations and Additions to Western Broadwalk and Foyer Area of the Sydney Opera House including annexures prepared on behalf of the Sydney Opera House Trust by Byrnes and Associates Pty Ltd, dated 16 February 2004			
Sydney Opera House Western Loggia and Foyer Refurbishment - Architect's Statement - Prepared for the Sydney Opera House Trust, February 2004			
Architectural (or Design) Drawings prepared by Utzon Architects			
Drawing No.	Revision	Name of Plan	Date
DA 001	000	SOH VIP - Western Loggia & Foyers - Site Plan - Level 012 - Indicative extent of works	January 2004
DA 002	000	SOH VIP - Western Loggia & Foyers Level 001 - Plan - Proposed	January 2004
DA 003	000	SOH VIP - Western Loggia & Foyers Level 012 - Plan - Proposed	January 2004
DA 004	000	SOH VIP - Western Loggia & Foyers Level 030 - Plan - Proposed	January 2004
DA 005	000	SOH VIP - Western Loggia & Foyers Roof Plan - Proposed	January 2004
DA 006	000	SOH VIP - Western Loggia & Foyers West Elevation - Proposed	January 2004
DA 007	000	SOH VIP - Western Loggia & Foyers Longitudinal Section and details	January 2004

DA 008	000	SOH VIP -- Western Loggia & Foyers Sectional Perspective looking north	January 2004
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### **3. Prescribed Conditions**

The Applicant shall comply with the prescribed conditions of development consent under clause 98 of the Regulation.

## **PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

### **4. Disabled Access**

The proposed wheelchair lift access to the Western Foyer Area shall be provided in accordance with Part D3 of the BCA's Access Policy. Prior to the issue of a Construction Certificate, a certificate certifying compliance with this condition from an appropriately qualified person shall be provided to the Certifying Authority.

### **Compliance**

### **5. Compliance Report**

Prior to the issue of a Construction Certificate, the Applicant, or any party acting upon this consent, shall submit to the Department a report addressing compliance with all relevant conditions of this consent.

## **PRIOR TO COMMENCEMENT OF WORKS**

### **Structural Works**

### **6. Structural Details**

Prior to the commencement of construction, the Applicant shall submit to the satisfaction of the PCA structural drawings prepared and signed by a suitably qualified practising Structural Engineer that comply with:

- (1) the relevant clauses of the Building Code of Australia,
- (2) the relevant development consent,
- (3) drawings and specifications comprising the Construction Certificate, and
- (4) the relevant Australian Standards listed in the BCA (Specification A1.3).

## **DURING CONSTRUCTION**

### **Structural Works**

### **7. Setting Out of Structures**

The building shall be set out by a registered surveyor to verify the correct position of each structure in relation to property boundaries and the approved alignment levels. The registered surveyor shall submit a plan to the PCA certifying that structural works are in accordance with the approved development application.

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## **Construction Management**

### **8. Approved Plans to be On-site**

A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the site at all times and shall be readily available for perusal by any officer of the Department, Council or the PCA.

## **Hours of Work and Noise**

### **9. Construction Noise**

Noise associated with any construction work, including demolition, excavation and building work must comply with 'The City of Sydney Code of Practice for Construction Hours/Noise 1992' and the Australian Standard 2436:1981 'Guide to Noise Control on Construction, Maintenance and Demolition Sites'.

### **10. Hours of External Construction Work**

The hours of construction for external works shall be restricted as follows:

- (1) between 7:00 am and 6:00 pm, Mondays to Fridays inclusive;
- (2) between 8:00 am and 1:00 pm, Saturdays;
- (3) no work on Sundays and public holidays.

### **11. Hours of Internal Construction Work**

The hours of construction for internal works shall be permitted to be carried out at any time during any 24 hour period, on any day of the week for the period specified in Condition No 12, providing the work does not unreasonably impact on the amenity of the patrons of the Sydney Opera House or surrounding residents.

### **12. Limited Period for Hours of Internal Construction Work**

Consent for a 24-hour working period set out in Condition No 11 shall be limited to 18 months from the date of commencement of works. Prior written approval of the Senior Planner, Urban Assessments, shall be obtained before these extended hours continue beyond the 18 month period. Should the applicant not be granted this extension, all construction work after this trial period shall occur only between the hours specified within the 'City of Sydney Code of Practice for Construction Hours/Noise 1992'.

**NOTE:** Any submission to extend the 24 hour working period beyond the permitted 18 months should address any likely impacts the 24 hour working period may have on amenity of the patrons of Sydney Opera House or surrounding residents. It should also include details of any complaints received in relation to construction works, and appropriate mitigation measures undertaken to address these complaints.

### **13. Contact Telephone Number**

Prior to the commencement of the works, the Applicant shall forward to the Department and Council a 24 hour telephone number to be operated for the duration of the construction works.



## **Heritage**

### **14. Heritage Superintendent**

Works on heritage components of the site shall be superintended by a consultant(s) experienced in the conservation of similar heritage buildings.

### **15. Use of Experienced Tradesmen**

Works on heritage components of the site shall be carried out by suitably qualified tradesmen with practical experience in the conservation and restoration of similar heritage buildings.

## **Compliance**

### **16. Compliance Report**

The Applicant, or any party acting upon this consent, shall, for the duration of construction period, submit to the Department a three monthly report addressing compliance with all relevant conditions of this consent. This compliance report shall include details of any complaints received in relation to the construction of the proposed works.

## **PRIOR TO OCCUPATION OR COMMENCEMENT OF USE**

### **Use of External Loggia Area**

#### **17. Outdoor Furniture**

Any outdoor furniture shall be confined to the area within the loggia and shall not obstruct the entry foyers. The placement of outdoor furniture within the loggia is to be minimised, and shall be consistent with relevant policies contained within the Conservation Management Plan.

#### **18. Public access**

The spaces between the loggia piers must not be enclosed, and public access to the area within the loggia shall be maintained at all times.

#### **19. External Lighting**

Any external lighting of the loggia shall comply, where relevant, with AS/NZ1158.3:1999 Pedestrian Area (Category P) Lighting, AS4282:1997 Control of Obtrusive Effects of Outdoor Lighting, and relevant policies contained within the Conservation Management Plan.

## **Engineering**

### **20. Fire Safety Certificate**

A Fire Safety Certificate shall be furnished to the PCA for all the Essential Fire or Other Safety Measures forming part of this approval prior to issue of an Occupation Certificate. A copy of the Fire Safety certificate must be submitted to the consent authority and Council by the PCA.

### **21. Annual Fire Safety Statement**

An Annual Fire Safety Statement must be provided to Council and the NSW Fire Brigade within 12 months of the consent authority receiving the initial Fire Safety Certificate.

## **22. Structural Inspection Certificate**

A Structural Inspection Certificate or a Compliance Certificate must be submitted to the satisfaction of the PCA prior to the issue of an Occupation Certificate and/or use of the premises. A copy of the Certificate with an electronic set of final drawings (contact consent authority for specific electronic format) shall be submitted to the consent authority and the Council after:

- (1) The site has been periodically inspected and the Certifier is satisfied that the Structural Works is deemed to comply with the final Design Drawings; and,
- (2) The drawings listed on the Inspection Certificate have been checked with those listed on the final Design Certificate/s.

## **Compliance**

### **23. Compliance Report**

The Applicant, or any party acting upon this consent, shall submit to the Department a three monthly report addressing compliance with all relevant conditions of this consent.

## **ADVISORY NOTES**

### **AN1 Compliance with Building Code of Australia**

The applicant is advised to consult with the PCA about any modifications needed to comply with the BCA prior to submitting the application for a Construction Certificate.

### **AN2 Structural Capability for Existing Structures**

The structural capabilities of an existing structure will need to meet the requirements of the BCA and may require engaging a structural engineer.

### **AN3 Noise Generation**

Any noise generated during the construction of the development shall not exceed the limits specified in the *Protection of the Environment Operations Act, 1997* or exceed approved noise limits for the site.