

# Walsh Bay Arts Precinct

Modification Application  
Mod 7

February 2022

**GTK**  
**CONSULTING**

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## 1.0 Introduction

This application has been prepared by GTK Consulting on behalf of Infrastructure NSW under section 4.55(1A) of the Environmental Planning and Assessment Act, 1979 (EP&A Act) to modify State Significant Development Consent SSD8671 relating to the construction of the Walsh Bay Arts Precinct.

The modification proposes external and internal amendments to Wharf 4/5 and Shore Shed 4/5 as a result of design development of the project. The amendments include:

- Additional uses and fit-out for Commercial tenancies 2-4;
- Replacement of existing windows with louvres for the Sydney Dance Company tenancy; and
- Installation of new louvres for the Sydney Theatre Company tenancy.

This application identifies the consent, describes the proposed modifications and provides an assessment of the relevant matters contained in section 4.55(1A) of the EP&A Act. This application is accompanied by:

- Amended Architectural Plans (Appendix A);
- Design Statement, TZG Architects (Appendix B);
- Heritage Impact Statement, Tropman and Tropman Architects (Appendix C);
- Noise Impact Assessment, Arup (Appendix D)
- Transport Statement, JMT (Appendix E).

## 2.0 Previous Approvals

Development consent SSD8671 was issued by the then Minister for Planning on 17 May 2018. The consent permitted:

- Demolition and early construction works;
- Internal and external works to Pier 2/3;
- Internal and external works to Wharf 4/5;
- Internal and external works to Shore Shed 4/5;
- Use of Pier 2/3, Wharf 4/5 and Shore Shed 4/5 for arts and cultural uses and ancillary uses, functions and events;
- Use of Pier 2/3, Wharf 4/5 and Shore Shed 4/5 and wharf aprons for Biennale and Sydney Writer's Festival events; and
- Public domain works.

A total of four modifications to the consent have been lodged since approval:

- **Modification 1** sought to amend Conditions B29 and B30 relating to the timing of lodgement of fire safety strategies. This modification was approved on 28 March 2019.
- **Modification 2** sought an extension to construction hours. This application has been put on hold following the issue of an order by the Minister for Planning and Public Spaces on 31 March 2020 authorising extended construction hours statewide during the COVID-19 pandemic.
- **Modification 3** sought internal and external design amendments to Pier 2/3, Wharf 4/5 and associated shore sheds, including installation of external pedestrian barriers, additional windows and changes to the rooftop mechanical plant. This modification was approved on 10 September 2020.
- **Modification 4** sought to amend condition E36 of the consent in relation to outdoor seating. This modification was approved on 23 December 2020.
- **Modification 5** sought approval for the modifications to the Pier 2/3 roof including louvres and plant and adjustment of the location of lift 3. Modification 5 is currently under assessment.
- **Modification 6** sought approval for the installation of glass balustrades on the eastern external stairs to Pier 2/3 as well as modifications to the loading dock access. This modification was approved on 2 December 2021.

### **3.0 Proposed Modifications**

#### **3.1 Modifications to the Development**

The following design amendments are proposed to the development:

- Additional uses and fit-out for Commercial tenancies 2-4;
- Replacement of existing windows with louvres for the Sydney Dance Company tenancy; and
- Installation of new louvres for the Sydney Theatre Company tenancy.

#### **3.2 Commercial tenancies 2-4**

Commercial tenancies 2-4 are approved for use as shops, restaurants, cafes or small bars (condition E4). This modification seeks to extend the use of these spaces to allow additional use for teaching, rehearsals, and office functions for arts and cultural uses.

The additional uses proposed are in line with approved uses under the original consent for remaining tenancies within the precinct. The purpose of the additional uses is to allow activation of all spaces within the precinct. Whilst future use of commercial tenancies 2-4 may include food and beverage, until such time as suitable tenants can be found for these spaces, additional use of the space by arts tenants will ensure the spaces are activated.

To enable use of commercial tenancies 2-4 for arts and cultural purposes, minor fit out works are proposed. Approval for the fit out is sought as part of this modification and includes:

##### **3.2.1 Commercial tenancy 2**

Commercial tenancy 2 works will be minor in nature and enable the space to be utilised for predominately office functions. Works include:

- Leveling of existing floor and installation of a new vinyl floor.
- Installing a new lightweight (steel framed) wall with insulation, plasterboard lining and paint finish to the north wall.
- Repair and seal existing facade weatherboards.

The installation of new flooring and internal wall to the north is considered to be a minor intervention. These works will enable the space to be utilised for a range of office functions to support the broader arts and cultural uses within the precinct.

##### **3.2.2 Commercial tenancy 3**

Commercial tenancy 3 works will be minor in nature and enable the space to be utilised for a mixture of office, teaching and rehearsal functions associated with arts and culture tenants. Works include:

- Installing new timber flooring.
- Installing a new lightweight (steel framed) walls with insulation, plasterboard lining and paint finish to the north, west and south walls.
- Installing kitchenette joinery along the western wall, reusing existing services.

The installation of new flooring, internal walls and kitchenette is considered to be a minor intervention. These works will enable the space to be utilised for a range of office, rehearsal and teaching functions to support the broader arts and cultural uses within the precinct.

### **3.2.3 Commercial tenancy 4**

Commercial tenancy 4 works will be minor in nature and enable the space to be utilised for a mixture of office, teaching and rehearsal functions associated with arts and culture tenants. Works include:

- Installing new sprung floor with vinyl finish.
- Installing a new lightweight (steel framed) walls with insulation, plasterboard lining and paint finish to the north and east walls.
- Installing kitchenette joinery along the western wall, reusing existing services.
- Make-good southern brick wall.

The installation of new flooring, internal walls and kitchenette is considered to be a minor intervention. These works will enable the space to be utilised for a range of office, rehearsal and teaching functions to support the broader arts and cultural uses within the precinct.

### **3.3 Sydney Dance Company**

The Sydney Dance Company tenancy is located on the ground floor of the southern end of Wharf 4/5. The tenancy includes 5 studios, 4 of which are located along the western edge of the tenancy. These 4 studios do not include air conditioning and it has been deemed not possible to install air conditioning due to limitations of power supply to the precinct.

To maintain thermal comfort for occupants of the studios it is proposed to install louvres above existing windows along the western façade. These louvres will assist in exhausting warm air from the studios.

The following pages outline the proposed louvres.

## Sydney Dance Company Louvres

Approved

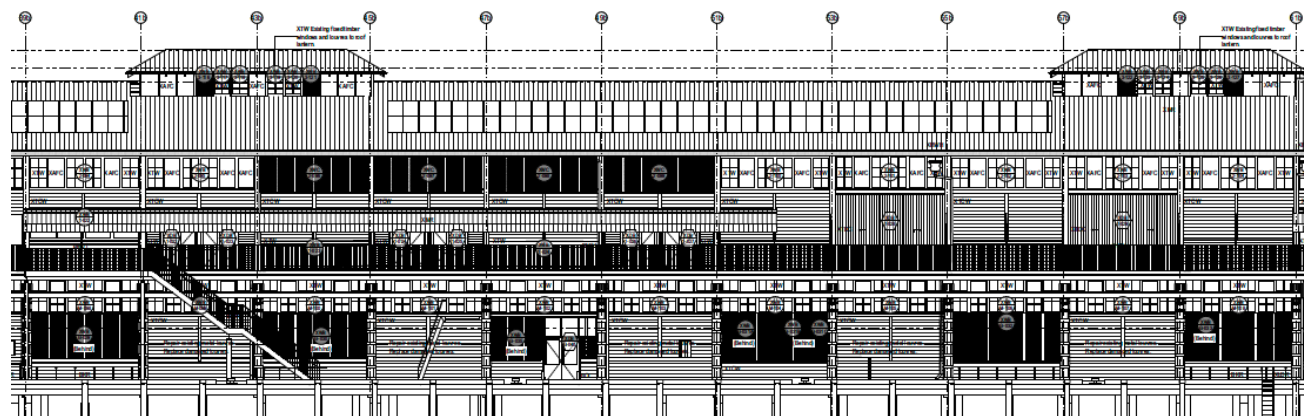


Figure 1: approved eastern façade (Plan A-222, 07/07/20)

Proposed

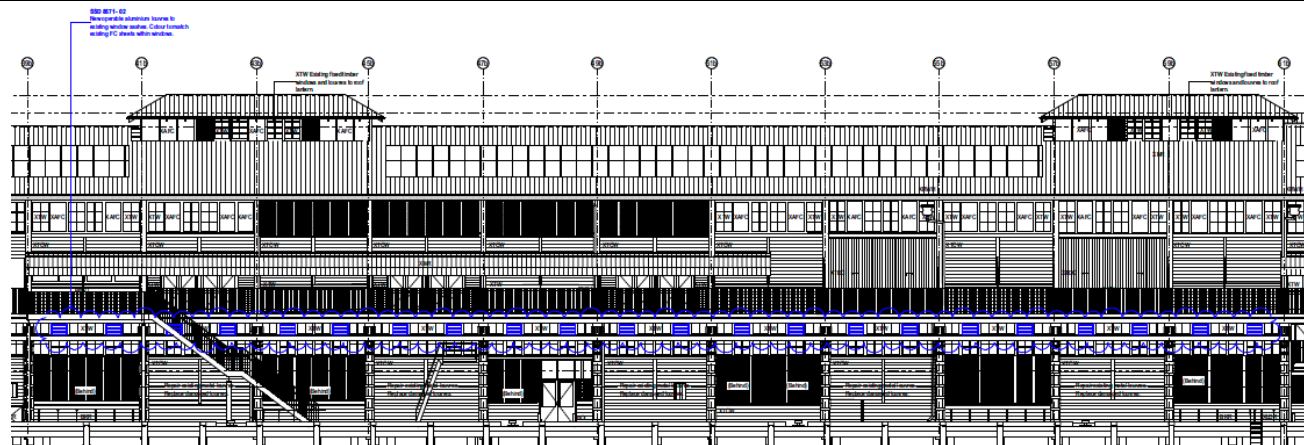


Figure 2: proposed eastern façade (Plan A-222, 24/01/22)

***Explanation and justification:***

The proposed louvres will assist with natural ventilation of Studios 1-4 and in maintaining occupant comfort. The 22 louvres will replace existing fibre cement (non-heritage) sheeting that is located on the upper sash of every 2<sup>nd</sup> and 5<sup>th</sup> window along the façade. The louvres will be aluminium and be painted to match the colour of the existing fibre cement sheeting.

### **3.4 Sydney Theatre Company**

The Sydney Theatre Company tenancy is located on levels 2 and 3 floor of Wharf 4/5. The tenancy includes a mix of performance and office spaces. Louvres are located along the western façade to assist with smoke exhaust. The installation of these louvres was approved as part of SSD8671, however their performance is not adequate as the design permits the ingress of rainwater.

In order to ensure weather proofing of the Sydney Theatre Company tenancy, it is proposed to replace the louvres with new 'two-stage' louvres that will prevent the ingress of water. Due to the design of the two stage louvres, additional venting will be required which is proposed to be via the installation of an additional 10 louvres to replace existing fibre cement sheeting.

The following pages outline the proposed louvres.



## Sydney Theatre Company Louvres

## Approved

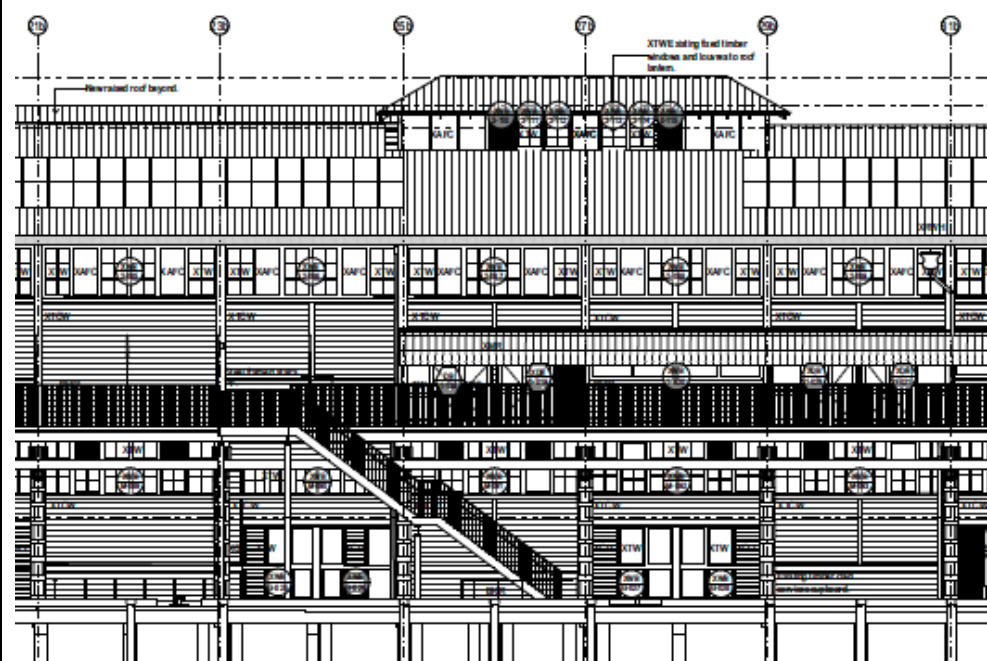


Figure 1: approved eastern façade (Plan A-222, 07/07/20)

## Proposed

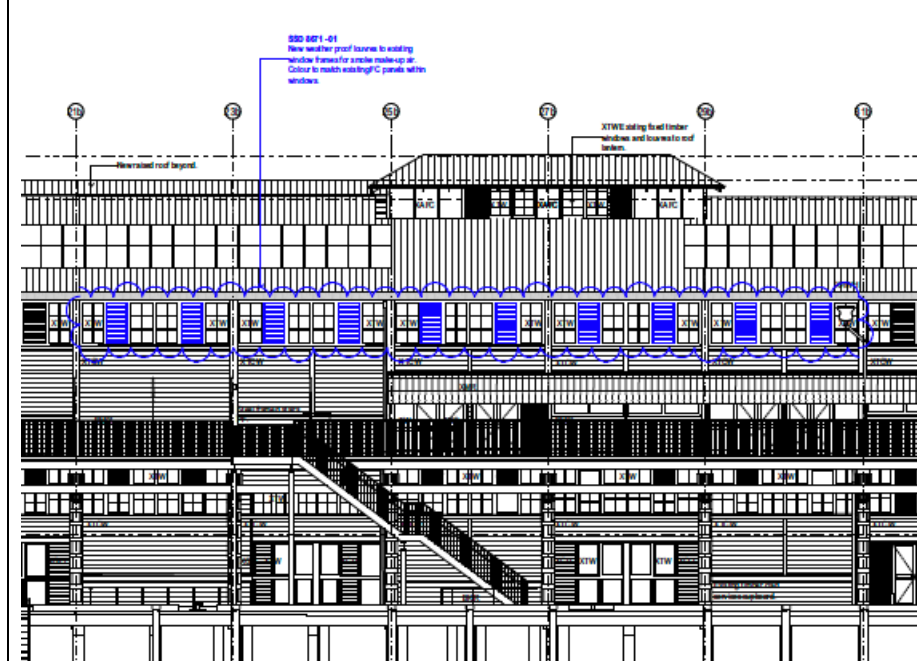


Figure 2: proposed eastern façade (Plan A-222, 24/01/22)

**Explanation and justification:**

The proposed louvres will assist with weather protection of the space whilst maintaining requirements for smoke exhaust. The 10 louvres will replace existing fibre cement (non-heritage) sheeting currently fitted to window frames along the façade. The louvres will be aluminium and be painted to match the colour of the existing fibre cement sheeting.

### 3.5 Modifications to Conditions

The proposed modifications described above necessitate amendments to the consent conditions as shown below. Words proposed to be deleted are shown in bold strikethrough and words to be inserted are shown in bold italics.

#### Terms of Consent

A3. The development may only be carried out:

- a) in compliance with the conditions of this consent;
- b) in accordance with all written directions of the Secretary;
- c) generally in accordance with the EIS and RTS; and
- d) in accordance with the approved plans in the table below;

Architectural Drawings prepared by Tonkin Zulaikha Greer Architects			
Drawing No.	Revision	Name of Plan	Date
A-000	A	Cover Sheet and Drawing List	25.09.2017
A-001	A	Legend	25.09.2017
A-002	A	Site Analysis Plan	25.09.2017
A-050	A	Ground Floor Demolition Plan	25.09.2017
A-051	A	Mezzanine Demolition Plan	25.09.2017
A-052	A	Level 1 Demolition Plan	25.09.2017
A-053	A	Level 2 Demolition Plan	25.09.2017
A-054	A	Level 3 Demolition Plan	25.09.2017
A-055	A	Roof Demolition Plan	25.09.2017
A-060	A	Pier 2/3 – Cross Sections – Demolition and Conservation	25.09.2017
A-061	A	Pier 2/3 – Long Section Grid H – Demolition and Conservation	25.09.2017
A-062	A	Wharf 4/5 – Cross Sections – Demolition and Conservation	25.09.2017
A-063	A	Wharf 4/5 – Long Section – Demolition and Conservation	25.09.2017
A-064	A	Shore Sheds – Sections – Demolition and Conservation	25.09.2017
A-070	A	Pier 2/3 – East Elevation – Demolition	25.09.2017
A-071	A	Pier 2/3 – West Elevation – Demolition	25.09.2017
A-072	A	Wharf 4/5 – East Elevation – Demolition	25.09.2017
A-073	A	Wharf 4/5 – West Elevation – Demolition	25.09.2017
A-074	A	Pier 2/3 and Wharf 4/5 – North and South Elevations -Demolition	25.09.2017
A-075	A	Shore Sheds – South Elevation (Hickson Road) - Demolition	25.09.2017
A-076	A	Shore Sheds – North Elevation - Demolition	25.09.2017
A-100	A	Ground Floor Plan	25.09.2017
A-101	A	Mezzanine Plan	25.09.2017
A-102	A	Level 1 Plan	25.09.2017
A-103	A	Level 2 Plan	25.09.2017
A-104	A	Level 4 Plan	25.09.2017
A-105	A	Roof Plan	13.07.2021

A-122	A	Wharf 4/5 South – Ground Floor Plan	26.06.2020
A-128	A	Wharf 4/5 North – Ground Floor Plan	26.06.2020
A-133	A	Wharf 4/5 North – Roof Plan	26.06.2020
<del>A-134</del>	<del>A</del>	<del>Shore Sheds – Ground Floor Plan</del>	<del>26.06.2020</del>
A-134	B	Shore Sheds – Ground Floor Plan	24.01.22
A-135	B	Shore Sheds – Mezzanine Floor Plan	24.01.22
A-138	A	Shore Sheds – Roof Plan	26.06.2020
A-140	A	Pier 2/3 South – Ground Floor Plan	07.07.2020
A-141	A	Pier 2/3 North – Ground Floor Plan	24.09.2021
A-200	A	Pier 2/3 - Cross Sections - Proposed	25.09.2017
A-201	A	Pier 2/3 - Long Section - Proposed	25.09.2017
A-202	A	Wharf 4/5 - Cross Sections - Proposed	25.09.2017
A-203	A	Wharf 4/5 - Long Section - Proposed	25.09.2017
A-204	A	Shore Sheds - Sections - Proposed	25.09.2017
A-220	A	Shore Sheds – North Elevation – Proposed	07.07.2020
A-221	A	Wharf 4/5 – East Elevation – Proposed	07.07.2020
<del>A-222</del>	<del>A</del>	<del>Wharf 4/5 – West Elevation – Proposed</del>	<del>07.07.2020</del>
A-222	B	Wharf 4/5 – West Elevation – Proposed	24.01.2020
A-223	A	Pier 2/3 + Wharf 4/5 – North + South Elevations –Proposed	13.07.2021
A-224	A	Shore Sheds – South Elevation + Breezeway – Proposed	07.07.2020
A-225	A	Pier 2/3 – West Elevation – Proposed	13.07.2021
A-226	A	Pier 2/3 – East Elevation - Proposed	24.09.2021
A-305	A	Shore Sheds – North Elevation - Proposed	25.09.2017
A-401	A	Shadow Diagram Summer Solstice	25.09.2017

A7. This consent in no way implies or grants approval for the following:

- a) events held in the public domain, excluding the Sydney Writer's Festival and the Biennale;
- b) construction a waterfront square; and
- c) the fit-out and use of commercial tenancies/spaces 2 to 4 **for use as shops, cafes, restaurants and small bars.**

Separate development application(s) must be lodged and consent obtained from the relevant consent authority for the above works and uses (except where exempt and complying development applies).

E3. The hours of operation for commercial spaces 2 to 4 in Shore Sheds 4/5 shall be restricted as outlined in the table below.

Land Use	Hours of Operation
Cafés, restaurants and small bars*	6 am to 12 midnight (indoor areas) 6 am to 10 pm (outdoor areas)
Shops*	10 am to 10 pm (indoor and outdoor areas)
Deliveries	6 am to 12 midnight
<b>Offices</b>	<b>24 hours</b>
<b>Teaching, rehearsals</b>	<b>6am to 12 midnight (indoor areas)</b>

E4. Commercial spaces 2 to 4 approved under this consent may only be used for the purposes of **offices, teaching and rehearsals relating to arts and cultural uses or as** shops, restaurants, cafés or small bars as defined in the *Standard Instrument - Principal Local Environmental Plan*.

**Note:** Nothing in this consent prevents any uses not listed above being established or changed under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, or that are the subject of a separate development application.

#### **4.0 Substantially the Same Development**

Section 4.55 (1A) of the EP&A Act states that a consent authority may modify a development consent if *“it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all)”*.

The development as proposed to be modified is substantially the same development for which the consent was originally granted in that:

- the proposed modified development retains the approved uses (albeit with additional but analogous uses for Commercial spaces 2-4) and does not change the overall objectives of the approved development as an arts and cultural precinct;
- the modification involves only minor design changes and the fundamental design philosophy and intent remain unchanged;
- the proposed modification will have minimal impact on the heritage fabric of the buildings; and
- the changes proposed will not result in any significant environmental impacts.

## 5.0 Environmental Assessment

Section 4.55(1A) of the EP&A Act states that a consent authority may modify a development consent if *'it is satisfied that the proposed modification is of minimal environmental impact.'* Section 4.55(3) of the EP&A Act requires a consent authority to take into consideration the matters referred to in section 4.15(1) that are of relevance to the development the subject of the application and the reasons given by the consent authority for the grant of the original consent. The EIS submitted with the original SSD DA addressed the likely impacts of the development, including:

- Built form and urban design;
- Environmental amenity;
- Transport and accessibility;
- Noise and vibration;
- Construction management;
- Built Heritage;
- Ecologically sustainable development;
- Waste management;
- Biodiversity;
- Environmental risks;
- Ground contamination;
- Site suitability; and
- Public interest.

The proposed modification to the approved development does not give rise to any material alteration to the assessment of the potential impacts that were considered and determined to be acceptable in the granting of Development Consent SSD 9671.

### 5.1 Compliance with statutory plans

Legislation	Comment
Biodiversity Conservation Act 2017	The proposed modification does not give rise to any further environmental impacts beyond those already addressed in the Biodiversity Development Assessment Report provided with the original application.
Environmental Planning Instrument	Comment
SEPP No55- Remediation	The proposed modification does not alter the approved development's consistency with this instrument as outlined in the EIS.
SEPP (Infrastructure)	The proposed modification does not alter the approved development's consistency with this instrument as outlined in the EIS.
SEPP (State and Regional Development)	The proposed modification does not alter the approved development's consistency with this instrument as outlined in the EIS.
SREP (Sydney Harbour Catchment)	The proposed modification does not alter the approved development's consistency with this instrument as outlined in the EIS.
SREP No16- Walsh Bay	Clause 13 of the Walsh Bay REP requires that the consent authority may not approve any works in the Walsh Bay Conservation Zone unless it has taken into consideration the extent by which the carrying out of the proposed development would affect the heritage significance of the Walsh Bay Conservation Zone. As outlined in the Section 3.6 and in the Statement of Heritage Impact at Attachment C, any impact on the heritage significance or fabric of the Walsh Bay Conservation Zone is minor.

## 5.2 Environmental Impacts

The proposed modifications relate to design development of the Walsh Bay Arts Precinct project. The design amendments are minor in nature and consistent with the original design intention of the approved project. The additional uses for Commercial spaces 2-4 are consistent with other approved uses within the precinct. The modifications will not result in any adverse impacts on the environment as outlined in the sections below.

### 5.2.1 Heritage

A Heritage Impact Statement has been prepared by Tropman and Tropman Architects (Appendix C). The Statement provides an assessment of the heritage impact of each of the proposed design amendments. A summary of the Statement findings is as follows:

Design Amendment	Heritage Assessment
Commercial tenancies 2-4	The use and fit out of commercial tenancies 2-4 for office, teaching and rehearsal uses associated with arts and cultural uses is considered to have a minor heritage impact. Reusing existing service connection points and restoring weatherboards on commercial tenancy 2 and restoration of brickwork in commercial tenancies 3 and 4 will ensure preservation of important heritage features.
Sydney Dance Company louvres	The installation of louvres is assessed as having a moderate additional heritage impact. The painting of the louvres to colour match the existing fibre cement sheeting will reduce the visual impact of the modification. The proposed design is considered to be the most sympathetic solution for maintaining occupant comfort.
Sydney Theatre Company louvres	The installation of louvres is assessed as having a moderate additional heritage impact. The painting of the louvres to colour match the existing fibre cement sheeting will reduce the visual impact of the modification. The proposed design is considered to be the most sympathetic solution for maintaining smoke exhaust requirements whilst ensuring weather protection.

The Heritage Impact Statement concludes:

*The proposed design modifications (Modification 7) to the approved SSD are considered reasonable and acceptable with regards to heritage impact. The proposed modifications were discussed along with appropriate heritage recommendations to mitigate any further impacts to heritage fabrics and the overall heritage significance of the wharf and precinct.*

*The changes are considered essential for improved reasonable amenity, waterproofing and fire safety and the occupancy use of the building.*

*The proposed modifications will have some positive impacts and minimal adverse impacts on significant heritage fabrics, views, the precinct and the immediate surroundings.*

### 5.2.2 Visual Impact

The proposed design amendments will not result in significant visual or view changes to or from surrounding properties or public places. The amendments will result in minor changes to the visual impacts of the precinct as assessed as part of the original EIS.

The inclusion of aluminium louvres along the western facade will result in minor visual impacts from limited areas of the public domain surrounding the precinct. Painting the louvres to match the existing fibre cement sheeting will assist in mitigating this impact.

Importantly no views to landmarks will be impacted as a result of the proposal. It is considered that the inclusion of the proposed louvres, as designed, is necessary in order to ensure suitable adaptive reuse of Wharf 4/5.

### **5.2.3 Noise**

Arup has undertaken a Noise Impact Assessment of the proposed changed uses of commercial tenancies 2-4. The assessment concludes that the overall impact of such change of use will be a slight decrease in assessed noise levels at surrounding receivers. This is due to the original assessment accounting for the use of outdoor spaces adjacent to the commercial tenancies for food and beverage uses. The use of these spaces for rehearsal, teaching and office uses associated with arts and cultural uses will be contained wholly within the internal spaces.

The installation of louvres along the western façade of Wharf 4/5 is expected to result in a minor noise increase (less than 1 dB) to surrounding noise receivers. The noise emitted from the spaces where louvres will be installed is entirely dependent on the noise generated within those spaces. As such Arup propose that post-installation testing be undertaken. The noise limits for general operation (condition E6) will be retained by calibrating the operation of internal noise generating activities (i.e. sound systems) following installation of the louvres. It is considered that condition E10 adequately covers the testing requirements post installation of the louvres and if required will ensure the Operational Noise and Vibration Management Plan (condition D12) is updated accordingly.

## **5.3 Suitability of the Site**

The site remains suitable for the approved development as proposed to be modified for the reasons outlined in the EIS lodged with the original State Significant Development Application.

## **5.4 The Public Interest**

The redevelopment of the Walsh Bay Arts and Cultural Precinct is a priority infrastructure project for the NSW Government. The redevelopment will create a public arts and cultural hub on Sydney's famous waterfront, while preserving its iconic heritage. The proposed modifications ensure the project is delivered in line with the intended use with minimal environmental impact. As such, the proposed modification is in the public interest.

## **6.0 Conclusion**

The proposed modifications seek the following amendments:

- Additional uses and fit-out for Commercial tenancies 2-4;
- Replacement of existing windows with louvres for the Sydney Dance Company tenancy; and
- Installation of new louvres for the Sydney Theatre Company tenancy.

In accordance with section 4.55(1A) of the EP&A Act, the consent authority may modify the consent as the proposed modification is:

- of minimal environmental impact;
- substantially the same development as development for which the consent was granted; and
- in the public interest.