

Dr Liz Develin,
Acting Secretary
NSW Department of Planning and Environment
GPO Box 39
Sydney NSW 2001

Attention: Cameron Sargent

Dear Ms Develin,

**SECTION 4.55(1A) MODIFICATION APPLICATION – SSD 7561
WHARF 4/5 AND SHORE SHED 4/5 (SYDNEY THEATRE COMPANY)**

This application is submitted by the Sydney Theatre Company pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to modify Development Consent SSD 7561 relating to Wharf 4/5 and Shore Shed 4/5 (the site).

The application seeks to modify conditions of consent B4 to B8 and B29 to align with similar conditions in the development consent for the adjoining Walsh Bay Arts and Cultural Precinct (SSD 8671).

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.

Background

Development Consent SSD 7561 was granted on 17 May 2018 and permits the demolition and internal fitout and refurbishment works of the Sydney Theatre Company at Wharf 4/5 and part of Shore Sheds 4/5, including:

- general demolition of internal areas and demolition of box offices, access ramp and stairs and partial demolition of roof
- refurbishment of Wharf Theatre 1, Theatre Bar and Wharf Theatre 2
- new box office/ticketing area
- increased capacity of Wharf Theatres 1 and 2
- new administration areas and offices
- new function room, and
- upgrades to services and infrastructure.

SSD 7561 was subject to concurrent assessment with the Walsh Bay Arts and Cultural Precinct (WBACP) Development Consent (SSD 8671). The WBACP Development Consent allows for early construction works, internal and external works to Pier 2/3, Wharf 4/5 (ground floor and mezzanine) and the Shore Sheds 4/5 for arts and cultural uses, functions and events, three new commercial spaces in Shore Sheds 4/5 and public domain works.

Concurrent assessment was undertaken given the interrelationship between the two projects. In particular, the STC SSD application relied in part on external works proposed as part of the WBACP to achieve compliance with the Building Code of Australia.

Proposed modifications to Consent SSD 7561

This application seeks to amend STC Conditions B4, B5, B6, B and B8 to align with WBACP Conditions B29, B30 and B31. The WBACP conditions require that fire safety strategies be approved prior to the commencement of relevant works (excluding demolition works) rather than prior to the issue of any Construction Certificate (or Crown Certification in the case of WBACP). As a result, the timing of approval of the relevant fire safety strategies by FRNSW differs between the two applications. The subject section 4.55(1A) modification seeks to modify the STC consent to align with the WBACP consent and accordingly require that the relevant strategies be prepared and approved prior to the commencement of works (excluding demolition works). This consistent approach is essential as the construction of the two projects is being undertaken as one.

The following conditions are proposed to be modified as part of this application. Words proposed to be deleted are shown in **~~bold strike through~~** and words to be inserted are shown in **bold underline**.

Fire Safety Strategy

B4 Prior to the ~~issue of the relevant Construction Certificate~~, commencement of the relevant works (excluding demolition works), the Applicant shall ensure details of the fire booster location/s are submitted to and approved by FRNSW.

B5 Prior to the ~~issue of the relevant Construction Certificate~~, commencement of the relevant works (excluding demolition works), the Applicant shall ensure details of the smoke hazard management system are submitted to and approved by FRNSW.

B6 Prior to the ~~issue of any Construction Certificate~~ commencement of relevant works (excluding demolition works), the Applicant shall prepare a holistic Fire Safety Strategy for the development in consultation with, and to the satisfaction of, FRNSW.

The Fire Safety Strategy must address a fire scenario involving malicious ignition (arson) as a sensitivity analysis be considered with multiple fires occurring at once within the public areas of the development.

The Fire Safety Strategy must be approved by FRNSW prior to the issue of the relevant ~~any~~ Construction Certificate.

B7 Prior to the ~~issue of any Construction Certificate~~ commencement of the relevant works (excluding demolition works), the Applicant shall prepare an Emergency Management Strategy and Evacuation Strategy for the development in consultation with and to the satisfaction of, FRNSW.

The Emergency Management Strategy and Evacuation Strategy must be approved by FRNSW prior to the issue of ~~any~~ the relevant Construction Certificate.

B8 Prior to the ~~issue of any Construction Certificate~~ commencement of the relevant works (excluding demolition), the Applicant shall ensure any isolation of the smoke detection system in the performance space/s during theatrical performances is approved by FRNSW.

It should be noted that the above amendments to conditions B6 and B7 reflect similar modifications proposed under a separate modification to be submitted in respect of the WBACP consent (SSD8671)

seeking amendment to conditions B29 and B30. This modification is required to enable satisfaction of these conditions prior to the issue of any relevant Construction Certificate (or Crown certification in the case of WBACP) rather than prior to any Construction Certificate.

Further, consistent with the existing WBACP consent it is requested that condition B29 be amended as follows:

Requirements of Public Authorities

B29 The Applicant must comply with the requirements of any public authorities (e.g. Ausgrid, Sydney Water, Telstra Australia) in regard to the connection to, relocation and/or adjustment to the services affected by the construction of the proposed structure. Any costs in the relocation, adjustment or support of services are the responsibility of the Applicant. Details of compliance with the requirements of any relevant public authorities must be submitted to the satisfaction of the certifying authority prior to ~~the issue of the Construction Certificate~~ the commencement of the relevant works.

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 as that originally approved in that it:

- Will not alter the nature of the proposed development;
- Does not seek to modify the approved uses, built form or any other key aspects of the approved SSD; and
- Will be of minimal environmental impact as it relates to the timing of the satisfaction of conditions of consent only.

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”. Under section 4.55(3) the consent Authority must also take into consideration the relevant matters to the application referred to in section 4.15(1) of the EP&A Act and the reasons given by the consent authority for the grant of the original consent.

The proposed modifications to conditions of consent will not result in any change to the environmental impact of the approved development and rather relate to the timing of satisfaction of conditions of consent only. The modified conditions will continue to ensure that the proposed development meets all regulatory requirements in relation to fire satisfy to the satisfaction of FRNSW. Further the proposed amendment to condition B29 will continue to ensure that relevant requirements of Public Authorities are met. No further environmental impact assessment is necessary in this regard.

Summary

The subject 4.55(1A) application seeks to modify specified conditions of consent in relation to the STC development consent SSD 7561 to align with the corresponding conditions of consent in the related WBACP consent SSD8671 to ensure consistent as the two projects are being constructed together. The proposed modifications relate to the timing of satisfaction of conditions of consent only and will not result in any environmental impact. The conditions as amended will continue to ensure that all regulatory requirements of FRNSW and other public authorities continue to be met.

Given the very minor nature of the proposed modification it is requested that the proposed modifications to the consent be issued at your earliest possible convenience.

Please do not hesitate to contact me if you wish to discuss any matter outlined above further.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'H. Miller', with a stylized flourish at the end.

Helena Miller
Director