



# **Extension of trial operating hours and increased patron capacity**

State Significant  
Development  
Modification Assessment  
(SSD 7683 MOD 2)



August 2019

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## Glossary

Abbreviation	Definition
AHD	Australian Height Datum
Applicant	Jimmy's on the Mall Pty Ltd
BCA	Building Code of Australia
CIV	Capital Investment Value
Consent	Development Consent
Council	City of Sydney Council
Department	Department of Planning, Industry and Environment
DPI	Department of Primary Industries
EIS	Environmental Impact Statement
EPA	Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
EPI	Environmental Planning Instrument
EPL	Environment Protection Licence
ESD	Ecologically Sustainable Development
Heritage Division	Heritage Division of the Department of Premier and Cabinet (former Heritage Division of the Office of Environment and Heritage)
LEP	Local Environmental Plan
LGA	Local Government Area
Minister	Minister for Planning and Public Spaces
NCC	National Construction Code
OPT	The Overseas Passenger Terminal
TfNSW (RMS)	Transport for New South Wales (Roads and Maritime Services)
RtS	Response to Submissions
SCRA Scheme	Sydney Cove Redevelopment Authority Scheme
SEARs	Secretary's Environmental Assessment Requirements
Secretary	Secretary of the Department of Planning, Industry and Environment
SEPP	State Environmental Planning Policy
SRD SEPP	State Environmental Planning Policy (State and Regional Development) 2011
SSD	State Significant Development
The Site	Tenancy 5 of Overseas Passenger Terminal



# **Executive Summary**

Jimmy's on the Mall Pty Ltd (the Applicant) seeks approval to modify the consent (SSD 7683) for the use of Tenancy 5 of the Overseas Passenger Terminal (OPT) as a restaurant with a micro-brewery, an outdoor dining area and business identification signage.

The section 4.55(2) modification request seeks to continue the existing trial hours of operation for the outdoor dining area and also to permit an increase to the maximum number of patrons at the site from 800 to 1000.

## **Engagement**

The Department publicly exhibited the modification request and received advice from City of Sydney Council (Council).

No objections were received. No submissions were received from member of the public.

During the assessment process, the Applicant provided a revised Plan of Management (POM) and additional information relating to compliance with the Building Code of Australia (BCA)

## **Assessment**

The key assessment issues for this project are building management performance, compliance with BCA and noise impacts. Overall, the Department considers the proposal is compliant with the BCA and any amenity impacts arising from the proposal can be suitably mitigated by the Plan of Management and conditions of consent.

## **Summary**

The Department considers the modification application to be appropriate as it would facilitate the continued operation of the site within an ongoing regulatory framework and the increase in patron numbers would not result in adverse amenity impacts to surrounding residents and businesses.

The Department considers the proposal is in the public interest and is recommended for approval.



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# 1. Introduction

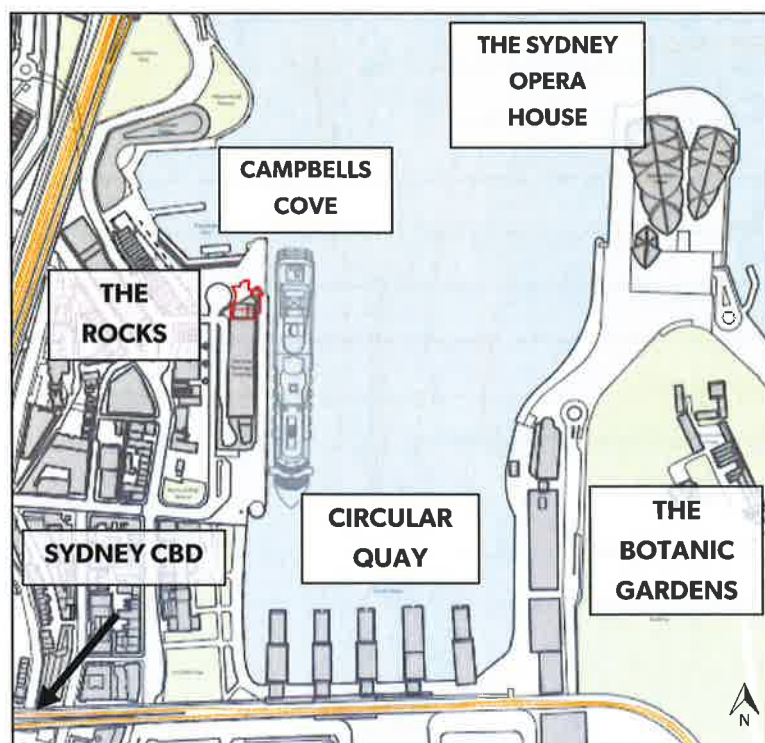
This report is an assessment of an application that seeks approval to modify the State significant development (SSD) consent (SSD 7683) for the use of Tenancy 5 of the Overseas Passenger Terminal (OPT) as a restaurant with a micro-brewery, an outdoor dining area and business identification signage.

The modification application has been lodged by Jimmy's on The Mall Pty Ltd (the Applicant) pursuant to section 4.55(2) of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The modification application seeks approval to continue the trial operating hours of the outdoor dining area for a further three years and to increase the maximum number of patrons at the premises from 800 to 1000 at any one time.

## 1.1 Background

Tenancy 5 (the site) is located at the OPT on the western foreshore of Circular Quay, The Rocks, in the City of Sydney local government area (LGA) (**Figure 1**). The site is used as a restaurant and micro-brewery known as 'Squires Landing' and encompasses a northern portion of both the ground level (known as level 1) and level two of the OPT (**Figure 2**). The northern end of the site includes an outdoor dining area (405 m<sup>2</sup>) that accommodates 293 people (**Figure 3**). **Figure 4** identifies the residential and commercial properties surrounding the site.

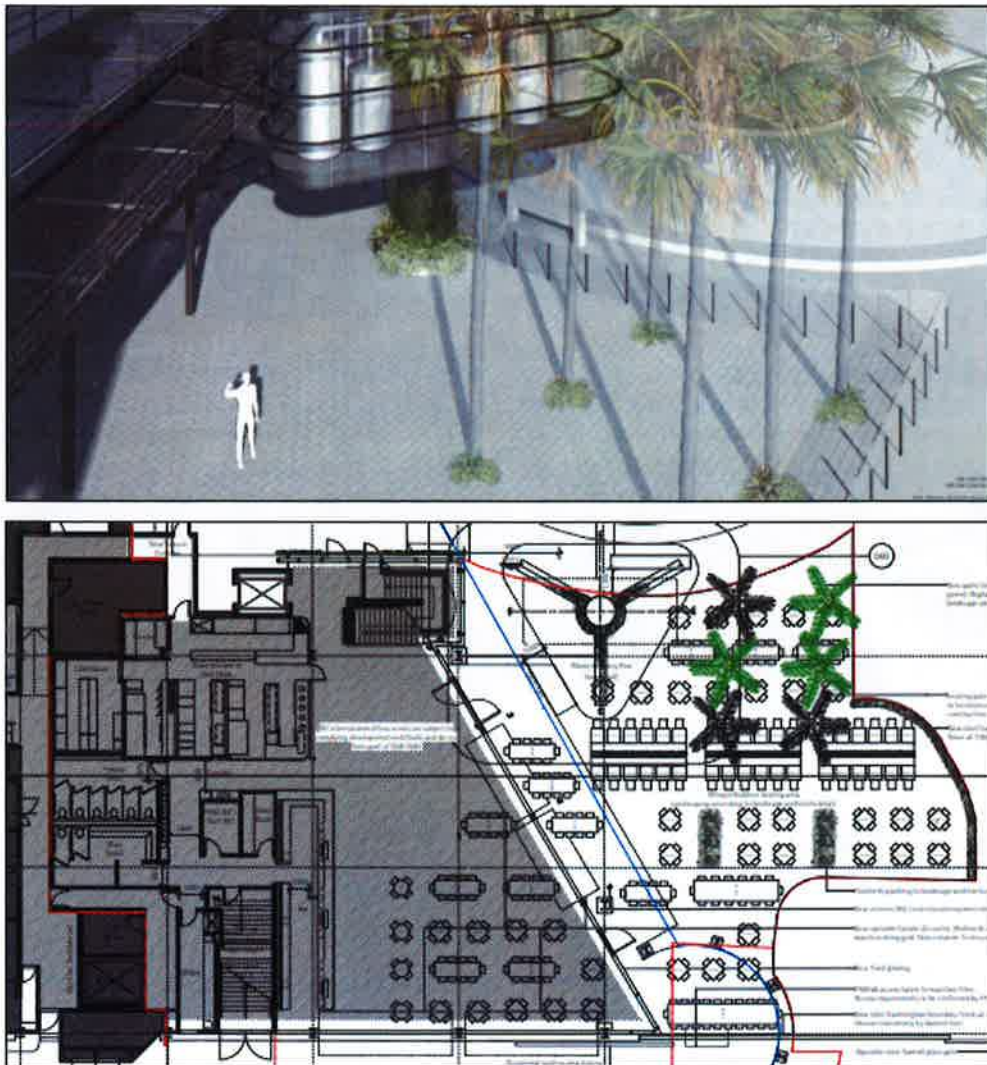
The OPT is a rectangular, four storey building located south of Campbell's Cove and directly across Sydney Cove from the Sydney Opera House. The OPT is situated between the western foreshore of Circular Quay and Circular Quay West, a service road connecting the OPT with Hickson Road. The site is legally described as Lots 1-3 DP 876516. The OPT was opened in 1960 and has undergone major additions and refurbishments in 1988, 2001 and 2015.



**Figure 1** | Location Plan showing Tenancy 5 of the OPT by the red outline (Source: EIS)



**Figure 2** | The site as viewed from the north (Source: James Squire)



**Figure 3** | An aerial-oblique view of the outdoor dining area (above) and the layout plan for the outdoor dining area (below) associated with the site (Source: Applicant)





**Figure 4** | Residential (blue shading) and commercial (green shading) receivers surrounding the site (red shading) (Base source: Nearmap)

## 1.2 Approval History

On 25 August 2017, the Acting Executive Director, Key Sites and Industry Assessments, approved SSD 7683 for the use of Tenancy 5 as a restaurant and for alterations to the OPT building. The approval included construction of a new micro-brewery, outdoor dining area and business identification signage. The base operating hours for the venue were approved follows:

- Indoor Areas
  - a) 6 am to 12 midnight Sunday to Thursday (inclusive)
  - b) 6 am to 1 am Friday and Saturday (inclusive)
  - c) 6 am New Year's Eve to 2 am New Year's Day (inclusive).



- Outdoor Areas
  - d) 8 am to 10 pm Monday to Sunday (inclusive).

The consent also included Condition F2, permitting trial operating hours for the outdoor area of the premises as follows:

- 6 am to 8 am Monday to Sunday (inclusive)
- 10 pm to 1 am Monday to Sunday (inclusive)
- 10 pm New Year's Eve to 2 am on New Year's Day.

Condition F4 limits the maximum number of persons (including staff, patrons and performers) permitted in the premises to 870 persons. The condition restricts the tenancy to the following:

- 800 patrons
- 70 staff
- A comfortable dining position must be available for each patron upon the premises. This must include a seat and access to table/bench space in accordance with the approved plans
- Management is responsible for ensuring the number of patrons in the premises does not exceed the approved capacity specified above.

The development consent has been modified on one occasion. On 7 March 2019, the Director, Key Sites Assessments, approved signage amendments and additions at the site.

The Department notes Condition E2 of the consent required a Plan of Management to be prepared for the premises to address the hours of operation, maximum numbers of patrons, complaints procedures and noise management protocol. The Plan of Management was approved the Director, Key Sites Assessments, under delegation on 17 May 2018.



## **2. *Proposed Modification***

On 16 May 2019, the Applicant lodged a modification application (SSD 7683 MOD 2) seeking approval, under section 4.55(2) of the EP&A Act, to extend the trial operating hours for a further three years and to increase the maximum number of patrons at the site from 800 to 1000.

There are no physical changes or amendments to the approved use of the site proposed in this application.



## 3. Strategic Context

### Greater Sydney Regional Plan

The 'Greater Sydney Regional Plan – A Metropolis of Three Cities' sets out the NSW Government's 40-year vision and establishes a 20-year plan to manage growth for Greater Sydney and includes 10 directions. The Plan's key directions are to provide:

- a city supported by infrastructure – infrastructure supporting new developments
- a collaborative city – working together to grow a Greater Sydney
- a city for people – celebrating diversity and putting people at the heart of planning
- housing the city – giving people housing choices
- a city of great places – designing places for people
- a well-connected city – developing a more accessible and walkable city
- jobs and skills for the city – creating conditions for a stronger economy
- a city in its landscape – valuing green spaces and landscape
- an efficient city – using resources wisely
- a resilient city – adapting to a changing world.

The City of Sydney local government area is located within the East Harbour City. The proposed development supports the directions and objectives of the Plan, in particular by:

- ensuring Greater Sydney's harbour central business district is stronger and more competitive
- ensuring Greater Sydney attracts investment and business activity in centres
- ensuring Greater Sydney is a great place that brings people together.

### Eastern City District Plan

The Greater Sydney Commission's (GSC) role is to coordinate and align planning to shape the future of Metropolitan Sydney. The GSC has prepared District Plans to inform local council and planning and influence the decisions of State agencies. The aim of the District Plans is to connect local planning with the longer-term metropolitan planning for Greater Sydney.

The Eastern City District Plan covers the City of Sydney LGA. The modification application is consistent with the Eastern City District Plan, in particular by creating and renewing great places (Planning Priority E6) and growing a stronger and more competitive Harbour CBD (Planning Priority E7) through the orderly development and operation of the Overseas Passenger Terminal building.

The Department's assessment considered the original application complied with the strategic planning context for the site. The Department has considered the proposed changes and is satisfied the proposal remains consistent with the strategic planning context.





## 4. Statutory Context

### 4.1 Scope of Modifications

A consent authority may modify a consent if it is satisfied the proposed modification application meets the requirements of section 4.55(2) of the *Environmental Planning and Assessment Act 1979* (EP&A Act). An assessment of the proposed modification application against the requirements of section 4.55(2) of the EP&A Act is provided in **Table 1**.

**Table 1** | Consideration of section 4.55(2) of the EP&A Act

Section 4.55(2)	Assessment
That the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified.	The proposed modification relates only to the continuation of existing trial operating hours and an increase to the maximum number of patrons permitted at the tenancy. No additional hours are sought, there are no physical works proposed and the use of the tenancy will remain the same. Therefore, the Department is satisfied the development is substantially the same development for which consent was originally granted.
That consultation has occurred with the relevant Minister, public authority or approval body and an objection has not been received.	The Department has consulted the relevant State government authorities and City of Sydney Council in relation to the modification application (refer to <b>Section 5</b> ).
The application has been notified in accordance with the regulations.	The application has been notified in accordance with the Environmental Planning and Assessment Regulation 2000 (refer to <b>Section 5</b> ).
Consideration of any submissions made concerning the proposed modification within the period prescribed by the regulations.	The Department has considered the submissions received during the exhibition period (refer to <b>Sections 5 and 6</b> )
Consideration of section 4.15(1) of the EP&A Act as are of relevance to the development application and the reasons given by the consent authority for the grant of the consent that is sought to be modified.	The Department has assessed the relevant matters for consideration under section 4.15(1) of the EP&A Act. Refer to <b>Section 6</b> .

### 4.2 Environmental Planning Instruments

The following Environmental Planning Instruments (EPIs) apply to the site:

- Sydney Cove Redevelopment Authority Scheme (SCRA Scheme)
- State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP)

- Draft State Environmental Planning Policy (draft SEPP Environment)
- Draft Remediation of Land State Environmental Planning Policy (draft SEPP Remediation)
- State Environmental Planning Policy No.55 – Remediation of Land (SEPP 55)
- State Environmental Planning Policy No. 64 – Advertising and Signage (SEPP 64)
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SREP 2005)
- State Environmental Planning Policy (Coastal Management) 2018 (Coastal SEPP).

The Department has assessed the proposed modification against the relevant provisions of these instruments and considers the modification can be carried out in a manner that is consistent with their aims, objectives and provisions. Refer to **Appendix B**.

### 4.3 Consent Authority

The Minister for Planning is the consent authority for the application under section 4.5(a) of the EP&A Act.

Under the Minister's delegation dated 11 October 2017, the Director, Key Sites Assessments, may determine the application as:

- the relevant local council has not made an objection
- a political disclosure statement has not been made
- there are no submissions in the nature of an objection.

### 4.4 Objects under the Act

The Minister or delegate must consider the objects of the EP&A Act when making decisions under the Act. The Department is satisfied the proposed modification is consistent with the objects of the EP&A Act.



## 5. Engagement

### 5.1 Department's Engagement

In accordance with clause 10 of Schedule 1 of the EP&A Act and clause 118 of the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation), the Department exhibited the application from 30 May 2019 to 12 June 2019:

- on the Department's website
- at the offices of the Department
- at City of Sydney Council's offices.

The modification application was advertised in the Sydney Morning Herald and the Daily Telegraph on 29 May 2019. Previous submitters and properties in the vicinity of the site were notified of the modification and invited to make a submission. The modification application was also referred to:

- City of Sydney Council (Council)
- Transport for New South Wales (TfNSW)
- Port Authority NSW
- Place Management NSW
- Heritage Division of the Department of Premier and Cabinet (Heritage Division)
- Liquor and Gaming NSW.

### 5.2 Summary of Submissions

The Department received a submission from RMS, TfNSW, Heritage Division and Council. RMS, TfNSW and Heritage Division noted the application had been reviewed and provided no comments.

Council confirmed the premises had no current or outstanding Order and no current history of non-compliance. Council made no further comment on the application on the basis the proposal maintained compliance with Condition F4 (iii) relating to the provision of table or bench space and seating for patrons.

No public submissions were received.

### 5.3 Response to Submissions

The Department placed copies of all submissions received on its website and requested the Applicant provide a response to the matter raised in Council's submission. The Applicant provided the Department with a revised Plan of Management (POM) and additional information relating to compliance with the Building Code of Australia (BCA). The Response to Submissions report (RtS) also provided a venue floor plan to demonstrate compliance with Condition F4 of the consent.





## 6. Assessment

### 6.1 Section 4.15(1) Matters for consideration

Under section 4.55(3) of the EP&A Act, the consent authority must consider the matters referred to in section 4.15(1) that are of relevance to the development. **Table 2** identifies the matters for consideration under section 4.15 of the EP&A Act that apply to the proposed modification.

**Table 2** | Consideration of section 4.15(1) of the EP&A Act

Section 4.15(1) Matters for consideration	Department's assessment
(a)(i) any environmental planning instrument	The proposal complies with the relevant environmental planning instruments identified in <b>Section 4</b> . Refer to <b>Appendix B</b> .
(a)(ii) any proposed instrument	Refer to <b>Appendix B</b> .
(a)(iii) any development control plan	Under clause 11 of the SRD SEPP, Development Control Plans (DCPs) do not apply to SSD.
(a)(iia) any planning agreement	Not applicable.
(a)(iv) the regulations	The modification application satisfactorily meets the relevant requirements of the <i>Environmental Planning and Assessment Regulation 2000</i> , including the procedures relating to applications (Part 6), the requirements for notification (Part 6, Division 6) and fees (Part 15, Division 1AA) (refer to <b>Section 5</b> ).
(b) the likely impacts of that development including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,	The Department considers that any environmental impacts arising from the development has been assessed in <b>Section 6</b> and mitigated by Plan of Management and conditions of consent ( <b>Appendix D</b> )
(c) the suitability of the site for the development	The site remains suitable for a restaurant and micro-brewery.
(d) any submissions	The Department has considered the submissions received (refer to <b>Section 6</b> and <b>8</b> ).
(e) the public interest	The Department considers the application to be in the public interest.

The Department has reviewed the modification application, the submissions received and the RtS and separately consider each element of the proposal below.

## 6.2 Extension of current trial operating hours for the outdoor area

The modification application seeks to continue the current trial operating hours for the outside dining area for a further three years. The Department notes any extended trading hours beyond the initial base hours (refer to **Section 1.2**) are subject to a trial period. Council and NSW Police have not raised any issues relating to the management performance of the venue during the current one-year trial period. Similarly, the Department's compliance branch confirmed there had been no compliance issues relating to the operation of the venue.

On this basis, the Department considers the venue has demonstrated suitable venue management performance and are operating in accordance with their Plan of Management, which has ensured the operation of the premises has not resulted in any complaints.

The Department concludes the request to extend the trial operating hours for a further three years would allow the venue to continue operation within an ongoing regulatory framework. The Department therefore supports the proposal to extend the trial operating hours for the outdoor areas for a further three years.

## 6.3 Increase the maximum number of patrons

The modification application proposes an additional 200 patrons to be permitted at the premises to increase the total patron maximum from 800 persons to 1000 persons. This would result in an overall maximum of 1070 persons at the venue, including 70 staff. Condition F4 of the consent prescribes that every patron be allocated a comfortable dining position with a seat and access to table or bench space.

In the RtS, the Applicant noted minor adjustments to the seating plan had been made since lodgement of the application. Updated venue floor plans were provided to demonstrate the venue would provide 1054 seats with access to a table or bench space. This includes 664 seats on the ground floor and 390 seats on level 1. **Table 3** identifies how the different areas of the venue would accommodate the patrons.

**Table 3** | Quantity of seating throughout the venue

Level	Area of Venue	Number of seats with access to table or bench space
Ground Level (total: 664)	Indoor	178
	Outdoor	486
Level 1 (total:390)	Indoor	266
	Outdoor	124
<b>Total</b>		<b>1054</b>

The Department reviewed the revised POM, updated venue floor plans and the RtS and note the Applicant seeks a maximum of 1000 patrons at the site. While the updated documentation demonstrates that 1054 seats have access to table or bench space which would be potentially capable of accommodating 1054 patrons, the Department recommends a maximum of 1000 patrons be permitted at the venue at all times.

### Noise

The modification application is supported by correspondence from EMM Consulting in relation to the potential noise impacts generated by the increase in the number of patrons at the site. The correspondence notes the proposed increase in patron capacity would result in a 1 dB relative increase in noise levels and this minor

increase in noise is considered imperceptible to surrounding commercial and residential receivers. The noise assessment concludes the venue would remain compliant with the noise limits.

The Applicant advised the venue would continue to implement the noise management controls outlined in the Plan of Management prepared for the original consent. The Plan of Management has been updated to reflect the proposed patron numbers and maintain the following noise management measures:

- use of door closers and noise limiters
- management patrols of perimeter and surrounding streets
- assist patrons to minimise disturbance while entering and departing from the site
- ensure that noise disturbance as a result of restaurant operations or the actions of patrons of the restaurant are minimised
- ensure any complaint regarding noise is logged in the venue complain register and the Venue Manager responds accordingly

The Department has considered the potential noise impact arising from the proposal and note that:

- the noise impact assessment concludes the impact of the proposed increased patron capacity would not affect surrounding receivers
- no complaints have been received by the Applicant, NSW Police or the Department's compliance team regarding noise impacts arising from the current operation of the venue.

The Department therefore considers the proposal would not have adverse noise impacts on noise sensitive receivers and the Plan of Management would ensure noise levels are maintained at acceptable levels at all times.

The Department therefore concludes the application would result in a similar level of acoustic impact as approved under SSD 7683 and notes venue has demonstrated suitable management performance. The Department therefore supports the proposal to increase the patron capacity of the venue.

## BCA

The Building Code of Australia (BCA) outlines the minimum necessary requirements for health, safety, amenity and sustainability in buildings and other structures. The BCA includes requirements to ensure adequate sanitary facilities for personal hygiene are provided. The Department notes the proposal would result in a maximum of 1070 persons at the site. Compliance with the BCA is considered below:

### Sanitary facilities

The Applicant notes, in relation to the BCA, the premises currently provides adequate bathroom capacity for 850 males and 950 females. In the RtS, the Applicant identified that, under the National Construction Code (NCC), the premises is considered a 'Class 6 building' due to its use as a restaurant. According to the NCC, the minimum sanitary facilities required to support 1070 patrons are identified in **Table 4** compared to the actual facilities provided at the venue outlined in **Table 5**.



**Table 4** | Minimum sanitary facilities required under the NCC

Patrons	Closet Pans	Wash Basins	Urinals
Male	3	4	8
Female	7	4	-
Person with a disability (unisex)	2	2	-

**Table 5** | Actual sanitary facilities required at the venue

Patrons	Closet Pans	Wash Basins	Urinals
Male	5	6	12
Female	13	7	-
Person with a disability (unisex)	2	2	-

The Applicant noted that staff make use of the sanitary facilities provided in the administration office further reducing the demand on sanitary facilities for patrons.

The Department has considered the surplus of provision of sanitary facilities, as detailed above, and concludes the venue would comply with the sanitary facility requirements of the BCA and NCC.

#### Egress

The EIS included calculations of aggregate egress widths from a BCA consultant. The calculations demonstrated the maximum number of people who can be safely accommodated within at the site is

- Ground level: 680 persons
- Level 2: 560 persons.

These calculations represent a 240-person surplus beyond what is proposed in the modification application. The calculations therefore demonstrate the proposal to allow 1000 persons at the premises would remain compliant with the requirements of the BCA. The Department concludes the modification application could comply with the BCA and therefore support the proposed modification.

To ensure all aspects of the codes are complied with, the Department will recommend a condition of consent requiring the Applicant to demonstrate compliance with the BCA prior to operation.



## 7. *Evaluation*

The Department has reviewed the proposed modification application, the RtS and the updated POM and assessed the merits of the application.

The Department is satisfied the modification application would not result in adverse noise or amenity impacts, could comply with the requirements of the BCA and would facilitate the continued operation of the premises within an ongoing compliance framework. The Department therefore considers the modification application is in the public interest and should be approved.



## 8. Recommendation

It is recommended that the Director, Key Sites Assessments, as delegate of the Minister for Planning:

- **considers** the findings and recommendations of this report;
- **determines** that the application SSD 7683 MOD 2 falls within the scope of section 4.55(2) of the EP&A Act;
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to grant approval to the application;
- **modify** the consent SSD 7683; and
- **signs** the attached approval of the modification (Appendix D).

Recommended by:

Tim Green  
**Planning Officer**  
**Key Sites Assessments**

Recommended by:

Cameron Sargent  
**Team Leader**  
**Key Sites Assessments**





## 9. Determination

The recommendation is **not adopted/adopted** by:

David McNamara

**Director**

**Key Sites Assessments**



# Appendices

## Appendix A – Documentation

The following supporting documents and supporting information to this assessment report can be found on the Department of Planning, Industry and Environment's website as follows:

1. Environmental Impact Statement  
<https://www.planningportal.nsw.gov.au/major-projects/project/12706>
2. Submissions  
<https://www.planningportal.nsw.gov.au/major-projects/project/12706>
3. Applicant's Response to Submissions  
<https://www.planningportal.nsw.gov.au/major-projects/project/12706>

## Appendix B – Environmental Planning Instruments

### Environmental Planning Instruments

EPIs considered as part of the assessment of the modification are:

- Sydney Cove Redevelopment Authority Scheme (SCRA Scheme)
- State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP)
- Draft State Environmental Planning Policy (draft SEPP Environment)
- Draft Remediation of Land State Environmental Planning Policy (draft SEPP Remediation)
- State Environmental Planning Policy No.55 – Remediation of Land (SEPP 55)
- State Environmental Planning Policy No. 64 – Advertising and Signage (SEPP 64)
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SREP 2005)
- State Environmental Planning Policy (Coastal Management) 2018 (Coastal SEPP).

### Compliance with controls

#### Sydney Cove Redevelopment Authority Scheme

The Sydney Cove Redevelopment Authority Scheme (SCRA scheme) is the relevant environmental planning instrument (EPI) regulating development in the Rocks and prescribes building height limits, building envelopes and permissible uses. The OPT is located on Drawings XLV1A and XLV-B of the SCRA scheme

SSD 7683 identified the use of Tenancy 5 at the OPT was classified, under the SCRA scheme, as 'restaurant and other food outlets'. The Department considers the proposed modification application is consistent with this use and remains compliant with the SCRA scheme.

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

The SRD SEPP aims to identify developments that are of State Significance due to size, economic value or potential impact. The original development was deemed State significance in accordance with Clause 6 of Schedule 2 of the SRD SEPP as it seeks to vary the Sydney Cove Redevelopment Authority Area Scheme.

#### Draft State Environmental Planning Policy (draft SEPP Environment)

The Explanation of Intended Effect for the Environment SEPP was exhibited until 31 January 2018. The Environment SEPP proposes to simplify the planning rules for the protection and management of the natural environment by consolidating seven existing SEPPs, including the SHC SREP.

The relevant matters for consideration and the general provisions relating to Sydney Harbour are proposed to remain in accordance with those in the current SHC SREP and therefore the proposed development would be consistent with the intended effect of the Environment SEPP.

The Sydney Harbour Foreshores and Waterway Area DCP 2005 is proposed to be transitioned into one or more guidelines that would cover the current content and provide updated guidance to consent authorities based on design principles and landscape character, however these guidelines are not currently in draft form.

#### Draft Remediation of Land State Environmental Planning Policy (draft SEPP Remediation)

The Explanation of Intended Effect for a new Remediation of Land SEPP was exhibited until 13 April 2018. The draft Remediation of Land SEPP proposes to better manage remediation works by aligning the need for development consent with the scale, complexity and risks associated with the proposed works.

The key operational framework of SEPP 55 is to be maintained in the new SEPP and new provisions are unlikely to significantly affect this application. As such, the Department considers the proposed development would be consistent with the intent of the Draft SEPP.

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

SEPP 55 requires a consent authority to consider whether the land is contaminated, and if so, whether the land would be remediated before the land is used for the intended purpose.

The Department has considered the potential contamination issues under the assessment of the original application. As the site does not have a history of contamination and the proposal does not involve a change of use, the Department is satisfied the proposal would not raise any additional issues with regards to contamination.

### SEPP 64 – Advertising and Signage

SEPP 64 applies to all signage that under an EPI can be displayed with or without development consent and is visible from any public place or public reserve. No signage is proposed in this application.

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

Consideration of the relevant clauses in the SREP (Sydney Harbour Catchment) 2005 is addressed in **Table A** below.

**Table A** | Consideration of SREP (Sydney Harbour Catchment)

<b>SREP (Sydney Harbour Catchment) 2005</b>	<b>Criteria</b>	<b>Department Comment / Assessment</b>	<b>Complies</b>
<b>Part 1, clause 3 (2)(c1)</b>	<ul style="list-style-type: none"><li>Land to which the plan applies.</li><li>Within the Sydney Harbour Catchment, particular provisions of this plan apply to the Sydney Opera House Buffer Zone, as shown on the Sydney Opera House Buffer Zone Map.</li></ul>	The proposed works are located within the SOH Buffer Zone as identified on the relevant map.	Y
<b>Part 3, clause 17 Zoning W1 Maritime Waters</b>	<ul style="list-style-type: none"><li>Land is divided into a number of zones as shown on the zoning map. However, the SCRA Scheme does not zone the land.</li></ul>	Although the W1 Maritime Waters zone is adjacent to the site, no works would be carried out in the zone.	N/A
<b>Part 3, clause 20 Matters for Consideration</b>	<ul style="list-style-type: none"><li>The matters referred to in Division 3 must be considered by the consent authority.</li></ul>	The Department has considered the relevant matters below.	Y
<b>Part 3, clause 21 Biodiversity, ecology &amp; environmental protection</b>	<ul style="list-style-type: none"><li>The consent authority must take into consideration the matters listed in the clause in relation to biodiversity, ecology and environmental protection.</li></ul>	The proposal would have a negligible impact on biodiversity, ecology or the natural environment.	Y
<b>Part 3, Clause 22 Public access to, and use of, foreshores and waterways</b>	<ul style="list-style-type: none"><li>The consent authority must take into consideration the matters listed in this clause in relation to public access to, and use of, the foreshores and waterways.</li></ul>	Public access along the foreshore and to the waterway would remain unchanged.	Y
<b>Part 3, Clause 23 Maintenance of a working</b>	<ul style="list-style-type: none"><li>The consent authority must take into consideration the matters listed in relation to the maintenance of a</li></ul>	The proposal would not impact on the maintenance of a working harbour.	N/A



<b>harbour</b>	working harbour.		
<b>Part 3, Clause 24 Interrelationship of waterway and foreshore uses</b>	<ul style="list-style-type: none"> <li>The consent authority must take into consideration the matters listed in this clause in relation to the interrelationship of waterway and foreshore uses.</li> </ul>	The proposal does not include any opportunities for waterway access and would not impact on the use of the waterway.	N/A
<b>Part 3, Clause 25 Foreshore and waterways scenic quality</b>	<ul style="list-style-type: none"> <li>The consent authority must take into consideration the matters listed in relation to the maintenance, protection and enhancement of the scenic quality of foreshores and waterways.</li> </ul>	The proposed works would improve the scenic quality of the foreshore and waterway.	Y
<b>Part 3, Clause 26 Maintenance, protection and enhancement of views</b>	<ul style="list-style-type: none"> <li>The consent authority must take into consideration the matters listed in relation to the maintenance, protection and enhancement of views.</li> </ul>	The proposal would maintain all of the views enjoyed from surrounding public space areas west of the site towards the SOH and other views would remain unaffected.	Y
<b>Part 3, clause 29 Foreshores &amp; Waterways Development Advisory Committee</b>	<ul style="list-style-type: none"> <li>A consent authority must not grant consent to a DA unless it has referred and considered the views of the Advisory Committee.</li> </ul>	The proposed development is of a type that does not require referral to the Advisory Committee.	N/A
<b>Part 4, clause 40 Strategic Foreshores Areas</b>	<ul style="list-style-type: none"> <li>Division 1 - Requirements for Master plans.</li> <li>This Division applies to development that is carried out on a strategic foreshore site.</li> </ul>	<p>The site identified as a strategic foreshore site on Sheet 3 (City Foreshore Area).</p> <p>The Minister has not directed a master plan for the land be prepared.</p>	Y
<b>Part 5 Division 3A Sydney Opera House</b>	<ul style="list-style-type: none"> <li>Clause 58A outlines this division applies to the Sydney Opera House buffer zone, as outlined on the Sydney Opera House Buffer Zone Map.</li> <li>Clause 58B outlines matters taken into consideration for development in the Sydney Opera House buffer zone to protect the World Heritage Value of the site.</li> <li>Clause 58C outlines parameters for minor development in which this division does not apply.</li> </ul>	The modification application would not adversely impact on the world heritage significance of the SOH.	Y

### State Environmental Planning Policy (Coastal Management) 2018 (Coastal SEPP)

The Coastal SEPP consolidates and replaces SEPP 14 (Coastal Wetlands), SEPP 26 (Littoral Rainforests) and SEPP 71 (Coastal Protection).

The Coastal Management SEPP gives effect to the objectives of the *Coastal Management Act 2016* (NSW) from a land use planning perspective. It defines four coastal management areas and provides assessment criteria tailored for each coastal management area. The consent authority must apply those criteria when assessing proposals for development that fall within one or more of the mapped areas.

The Coastal SEPP identifies the site as being located within the coastal environment area and coastal use area. Land within these areas are subject to clause 13 and 14, however as the site is located on land within the Foreshores and Waterways Area of the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005, clauses 13 and 14 of the Coastal SEPP do not apply.

## Appendix C – Submissions

Issue	Consideration
City of Sydney Council	
<ul style="list-style-type: none"><li>The modification application should comply with Condition F4 of the consent</li></ul>	<p>Refer to <b>Section 6.3</b>. The RtS included revised venue floor plans to demonstrate that venue could accommodate 1054 patrons with a seat and access to table or bench space.</p> <p>The application seeks a maximum of 1000 patrons and would therefore have a surplus of seating and table or bench space.</p> <p>The Department is therefore satisfied the proposal would comply with Condition F4 of the consent, subject to a condition limiting patrons numbers to a maximum of 1000 patrons.</p>

## Appendix D – Notice of Modification

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## Appendix E – Consolidated Consent

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