



Planning &  
Environment

**STATE SIGNIFICANT DEVELOPMENT:  
(SSD 7881)  
*Sydney Opera House – Joan Sutherland  
Theatre Function Centre and Related Works***



Environmental Assessment Report  
Section 89H of the  
*Environmental Planning and Assessment Act 1979*

July 2017

## ABBREVIATIONS

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Applicant	Sydney Opera House Trust
Agency	NSW Planning and Environment
BRP	Building Renewal Program
CIV	Capital Investment Value
CMP	<i>A Plan for the Conservation of the Sydney Opera House and its Site (Third Edition) 2003</i>
SEARs	Secretary's Environmental Assessment Requirements
Secretary	Secretary of Planning and Environment, or delegate.
EIS	Environmental Impact Statement
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPA	Environment Protection Authority
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
EPI	Environmental Planning Instrument
HIS	Heritage Impact Statement
JST	Joan Sutherland Theatre
LEP	Local Environmental Plan
Minister	Minister for Planning
RTS	Response to Submissions
SOH	Sydney Opera House
SRD SEPP	<i>State Environmental Planning Policy (State and Regional Development) 2011</i>
SSD	State Significant Development
TfNSW	Transport for NSW

**Cover Photograph:** Photograph of Sydney Opera House, Bennelong Point  
(Source: Applicant's Environmental Impact Statement)

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## Executive Summary

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This report assesses a State significant development application (SSD 7881) lodged by Sydney Opera House Trust (the Applicant) seeking the adaptation and enlargement of the existing function centre, the relocation of the existing ballet rehearsal room to the south-eastern side of the building, removal of the marquee on the northern broad walk, and installation of removable bollards and umbrellas in the northern broad walk.

The development is SSD under clause 1 of Schedule 2 of the *State Environmental Planning Policy (State and Regional Development) 2011*, as it is development undertaken on the Sydney Opera House (SOH) site. Therefore, the Minister for Planning is the consent authority.

The proposed development would have a CIV of \$16.7 million and would create up to 85 jobs during construction.

The Department of Planning and Environment (the Department) exhibited the Development Application and Environmental Impact Statement for the proposal for 30 days from 20 October 2016 to 21 November 2016.

NSW Heritage initially raised concerns with the proposed building works and the relocation of the ballet rehearsal room. Council objected to the removal of significant internal fabric, and that the enlarged function room and relocation of the ballet rehearsal room detracts from the heritage values and primary function of the SOH. The EPA did not object to the proposal, however raised concerns in relation to construction hours and operational noise methodology. TfNSW did not object to the proposal and recommended conditions relating to construction management.

The Department received three public submissions objecting to the proposal. The key issues raised in public submissions were noise impacts associated with the use of the function centre and the northern broad walk.

The Response to Submissions rationalised the extent of changes to the building fabric, provided confirmation from The Australian Ballet that the proposed relocated ballet rehearsal room is best suited for its needs, and additional information relating to noise management. NSW Heritage support the amended proposal however, Council maintains its objection.

The Department has considered all relevant matters under section 79C of the *Environmental Planning and Assessment Act 1979*, the objects of the Act and the principles of ecologically sustainable development. The key issues in the Department's assessment of the proposal are potential noise and heritage impacts.

The Department considers the proposal would provide the SOH with a high-quality function centre and will not result in adverse impacts to the significant heritage fabric of the SOH. Further, the conversion of the existing ballet rehearsal room to a new production kitchen to support the function centre and other foyers and bars will facilitate improved operations within the SOH whilst also providing the opportunity for improved rehearsal facilities for The Australian Ballet.

The Department has considered the comments provided by NSW Heritage and has recommended a condition be imposed requiring the Applicant to engage a heritage consultant throughout the construction stages of the development. The heritage consultant would oversee the works to the interior walls and ensure significant fabric of the building is preserved, restored or removed appropriately.

The Department notes the works were the subject of a controlled action under the *Environment Protection and Biodiversity Conservation Act 1999* and have been approved by the Commonwealth Department of Environment and Energy, however the Applicant will be required to obtain further

approval for the proposed works from the Heritage Council under Part 4 of the *Heritage Act 1977*. The Department considers the proposal would not result in any unacceptable heritage impacts.

The Department considers the proposal is in the public interest as it would allow the SOH to continue to operate as an iconic tourist destination, would provide improved public access to the northern broad walk when not in use for functions, and potential impacts from the operation of the function centre are minor and can be appropriately managed.

Accordingly, it is recommended the application be approved, subject to the conditions outlined in this report and the development consent. The application is being referred to the Minister for Planning for determination as Council objected to the proposal.

# 1. BACKGROUND

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## 1.1 Introduction

This report provides an assessment of a State significant development application (SSD 7881) lodged by Sydney Opera House Trust (the Applicant) seeking the adaptation and enlargement of the existing function centre, the relocation of the existing ballet rehearsal room to the south-eastern side of the building, removal of the marquee on the northern broad walk, and installation of removable bollards and umbrellas in the northern broad walk.

## 1.2 Sydney Opera House

The Sydney Opera House (SOH) is one of the world's most distinctive and recognisable buildings. It is situated at the north-eastern edge of the Sydney CBD adjoining Sydney Harbour at 2 Circular Quay East, Bennelong Point. The two main performance spaces located within the SOH building are the Concert Hall on the western side of Bennelong Point and the Joan Sutherland Theatre (JST) on the eastern side. The SOH building sits above a large forecourt area paved with cobblestone and reconstituted granite and is serviced by an underground loading dock below the forecourt which is accessed via Macquarie Street. The existing function centre space is located at the northern end of the eastern shell and was designed as part of the original fabric of the building and is currently used for catered events.

The SOH site is recognised as one of Sydney's premier entertainment and tourist destinations that attracts approximately 8.2 million visitors per year. The lower concourse of the SOH is located along the western side of the site, providing amenities and services to visitors and staff including the underground Opera House Car Park, Opera Kitchen, Opera Bar and the Visitor and Interpretation Centre. Pedestrian access is provided to the lower concourse area via a series of stairs and escalators located at the northern and southern ends.

## 1.3 Site Context

The SOH site (outlined in **Figure 1**) is surrounded by substantial public open space, including the Royal Botanic Gardens, Government House and Circular Quay.

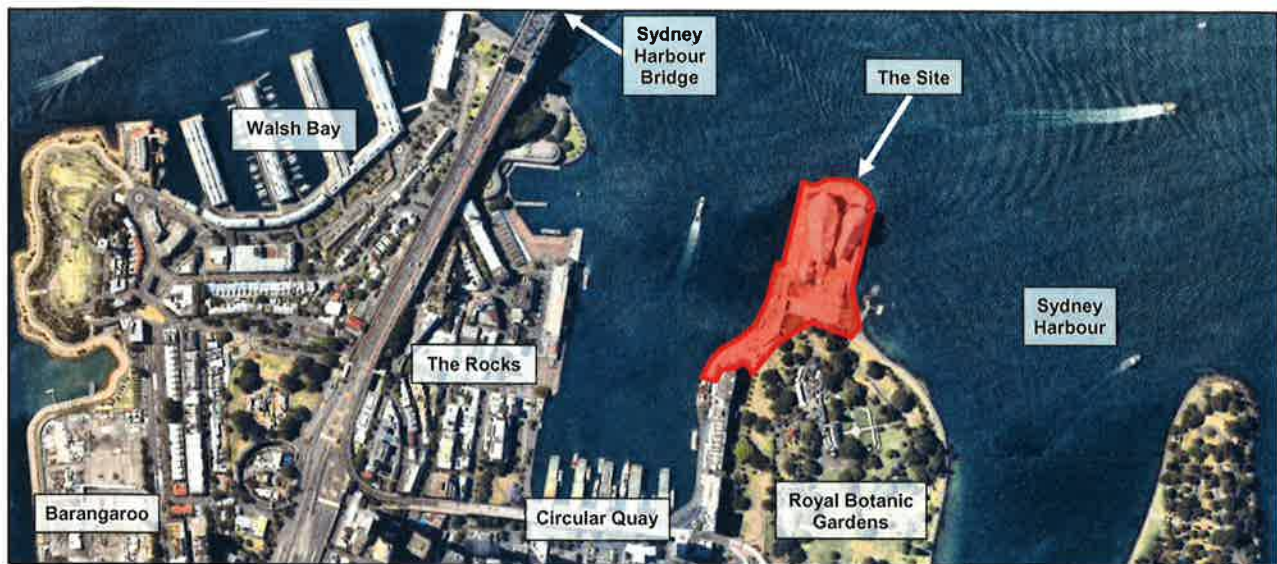
Circular Quay, located to the south-west of the site, is a principal entry point to Sydney from the Harbour and provides a core pedestrian thoroughfare connecting the CBD to the SOH site. The Royal Botanic Gardens adjoins the site to the south-east with Government House and the gardens elevated directly south above the site. A mixed-use residential apartment building (Bennelong Apartments) is located to the south of the site at 1 Macquarie Street.

## 1.4 Sydney Opera House Building Renewal Program

The Applicant has developed a Building Renewal Program (BRP) to guide the transformation of the SOH building over the next decade. The BRP is valued at \$202 million and represents the largest program of capital works to the SOH building since its opening in 1973.

The BRP is aimed at maximising the SOH's economic and cultural significance as a tourist destination and performing arts centre for the 21<sup>st</sup> century. In addition, the BRP aims to improve the operational efficiency of the building and ensure compliance with modern building, accessibility and Work Health and Safety requirements.



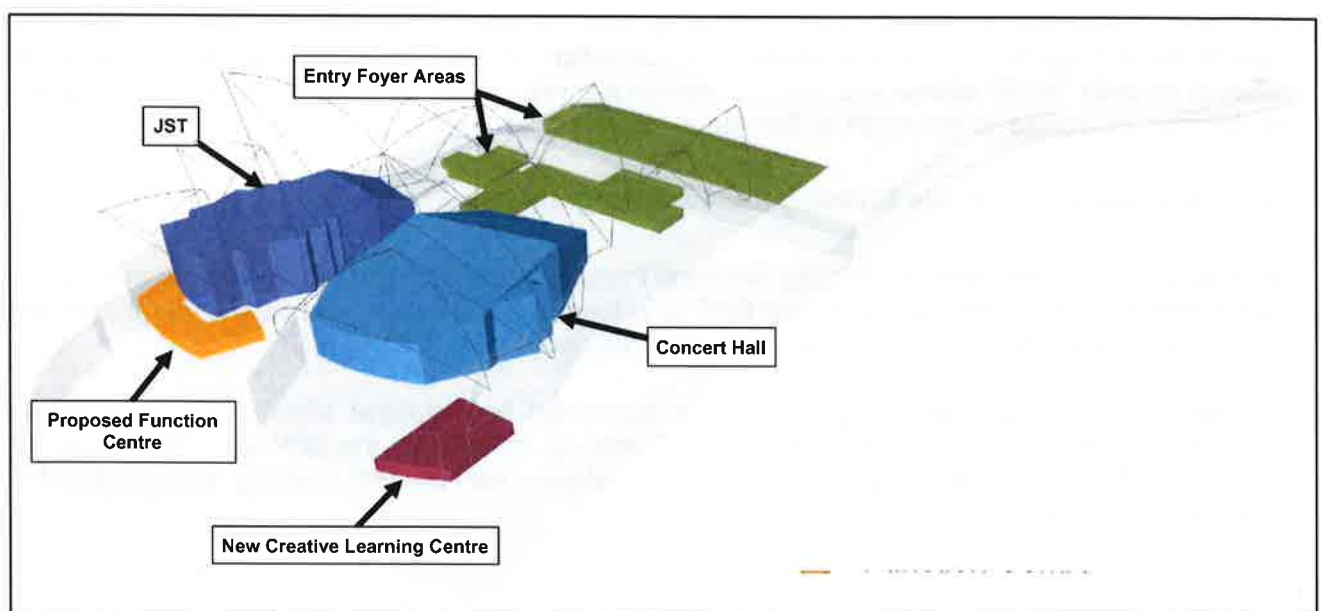


**Figure 1:** Site location (Shown in Red) (Source: Nearmap)

The development of the BRP has been informed by input from the Eminent Architects Panel, established by the Applicant in 2011 to advise on architecture and design issues. The BRP has also been developed in consultation with a wide range of stakeholders, including Opera Australia, the Australian Ballet, the SOH Conservation Council, the Commonwealth Department of Environment, Heritage Council of NSW, City of Sydney Council (Council), The National Trust, the Metropolitan Local Aboriginal Land Council, the community of people with disabilities and surrounding landowners.

The BRP comprises a wide range of works to the SOH building, including upgrading the JST, entry foyer areas, function centre and Concert Hall and a new creative learning centre (see **Figure 2**). The Department recently approved works to the JST to replace theatre equipment (SSD 7639) and provide accessibility upgrades (SSD 7665).

To facilitate the BRP, the proposal seeks the adaptation and enlargement of the existing function centre to provide a world-class facility for celebratory events, to convert the existing ballet rehearsal room into a new production kitchen that would support the function centre and other foyers and bars, and to relocate the existing ballet rehearsal room.



**Figure 2:** Sydney Opera House Building Renewal Program (Base source: EIS)

## 1.5 Pre-Existing Use and Approval

On 29 June 2004, the Department approved a development application for temporary functions/events on the northern broad walk (DA 444-10-2003). The conditions of consent restricted the number of events as follows:

- Low impact (maximum 250 patrons): 144 days per year
- Medium impact (maximum 1,000 patrons): 40 days per year.

The approved hours of operation for the functions was from 8 am until 12 midnight (all days), except for up to 15 low impact functions which were permitted to commence at 6.30 am.

On the 1 May 2009, the Department approved the continued use of the northern broad walk for temporary functions and events until 31 December 2009. The Department notes despite the time restriction, the consent remains in force. However, if the subject application is granted consent, the SOH will surrender the consent (DA 444-10-2003) as modified.

## 2. PROPOSED DEVELOPMENT

### 2.1 Development Summary

The Applicant seeks approval for the adaptation and enlargement of the existing function centre, the relocation of the existing ballet rehearsal room to the south-eastern side of the building, removal of the marquee on the northern broad walk, installation of removable bollards and umbrellas and associated works.

The function centre is sought to be used for events such as weddings, conferences and cocktail receptions. The northern broad walk is also sought to be used as an outdoor area in conjunction with the function centre.

The key components of the proposal, as amended by the RTS report are detailed in **Table 1** and **Figures 3 to 6**.

**Table 1:** Key components of the proposed development as amended by the RTS.

Aspect	Description
<b>Internal Alterations</b>	<p><i>Ground floor:</i></p> <ul style="list-style-type: none"> <li>• create openings to the two internal radial walls to create interconnecting double height function spaces</li> <li>• modifications to the main curved wall that separates the existing function space and kitchen</li> <li>• conversion of the existing ballet rehearsal room to a new production kitchen</li> <li>• relocation of the ballet rehearsal room to the south-eastern side of the building</li> <li>• alterations to the amenities room to provide female toilet facilities.</li> </ul> <p><i>Mezzanine floor:</i></p> <ul style="list-style-type: none"> <li>• remove the plant room to facilitate a double height function centre</li> <li>• construction of a new lift stop to the mezzanine level</li> <li>• conversion of the existing store room into male toilet facilities.</li> </ul>
<b>External Alterations</b>	<ul style="list-style-type: none"> <li>• Removal of the existing temporary marquee on the northern broad walk</li> <li>• installation of removable bollards and ten removable umbrellas (height of 3.35 m and a square canopy measuring 3.2 m x 3.2 m) in the northern broad walk for function-related events</li> <li>• two new doors to the curved glass wall facing the northern broad walk</li> <li>• enlargement of the existing single entry on the western side of the podium.</li> </ul>
<b>Use of the Function Centre</b>	<ul style="list-style-type: none"> <li>• Maximum capacity of 500 patrons</li> <li>• the following hours of operation: <ul style="list-style-type: none"> <li>▪ internal activities:</li> </ul> </li> </ul>

Aspect	Description
	6 am to 1.30 am, 7-days-a-week ■ external activities on the northern broad walk: 6 am to 12 midnight, 7-days-a-week.
Construction	• Demolition and construction works are proposed to be undertaken on a 24-hour basis and expected to take approximately 7 months.
Employment and Capital Investment Value	• Up to 85 construction jobs • CIV of \$16.7 million.

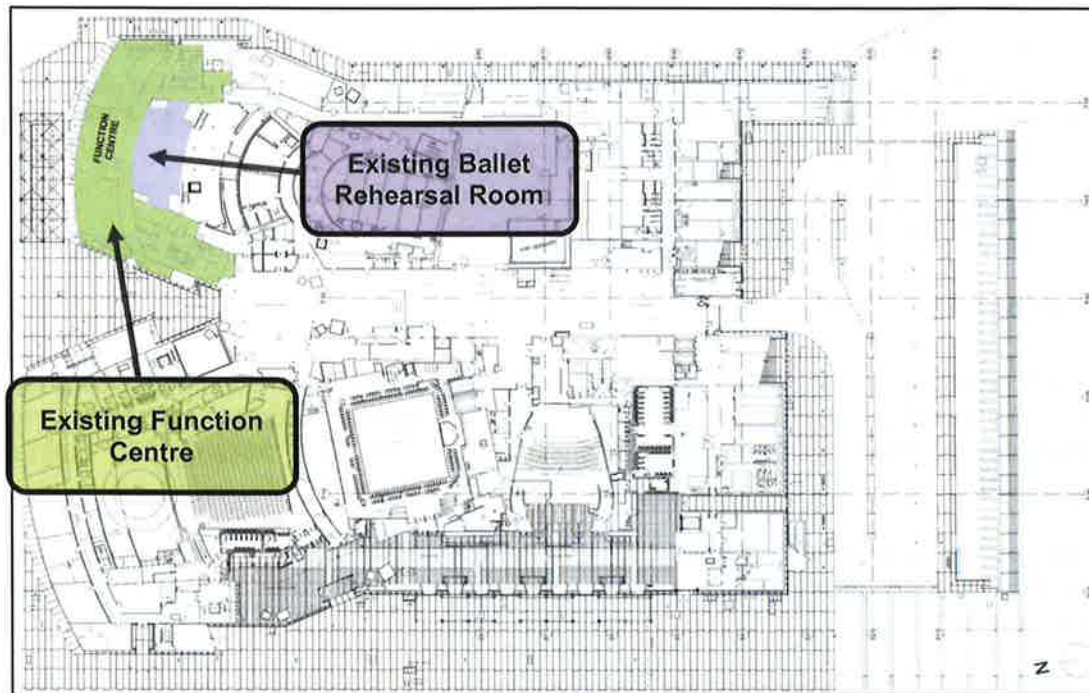


Figure 3. Existing Function Centre and Ballet Rehearsal Room (Source: Applicant's EIS)

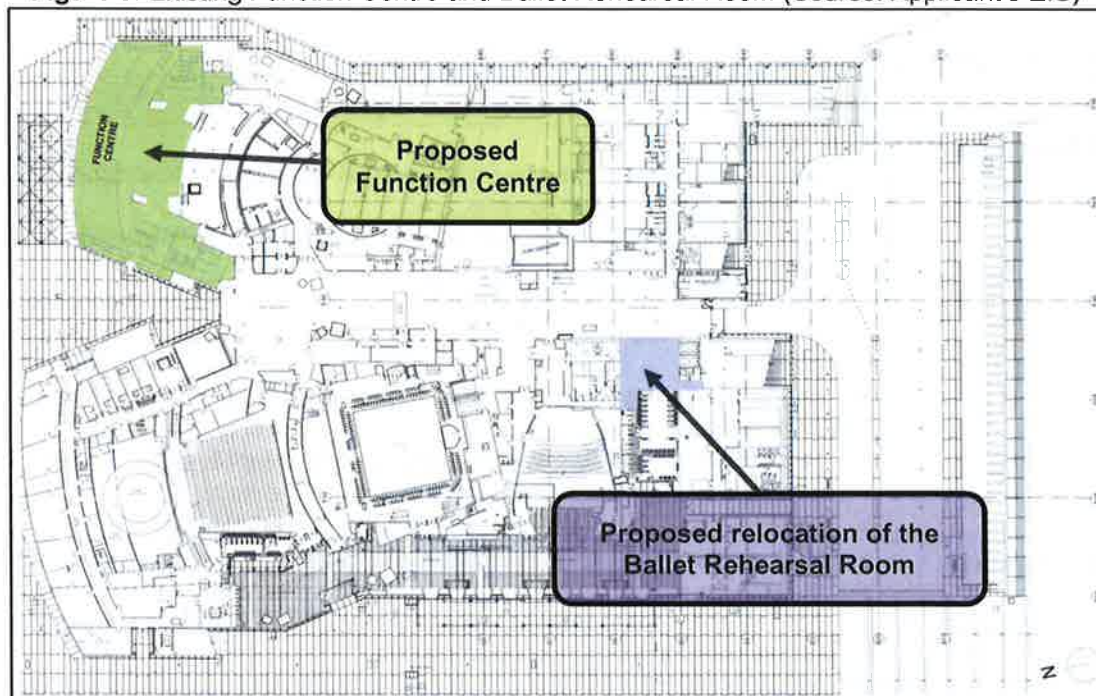


Figure 4. Proposed location of the Ballet Rehearsal Room (Source: Applicant's EIS)



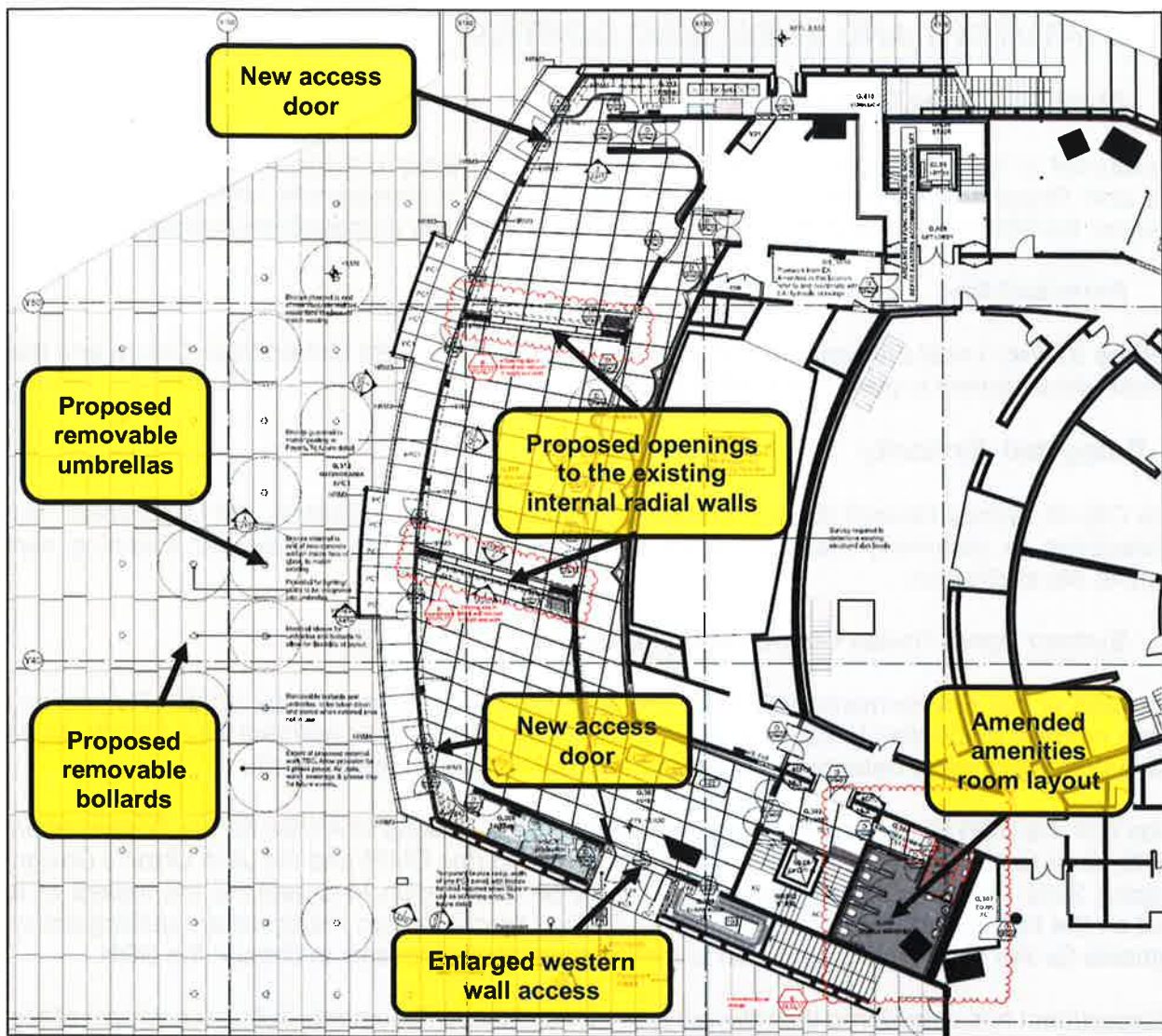


Figure 5. Proposed function centre and northern broad walk (Source: Applicant's RTS)

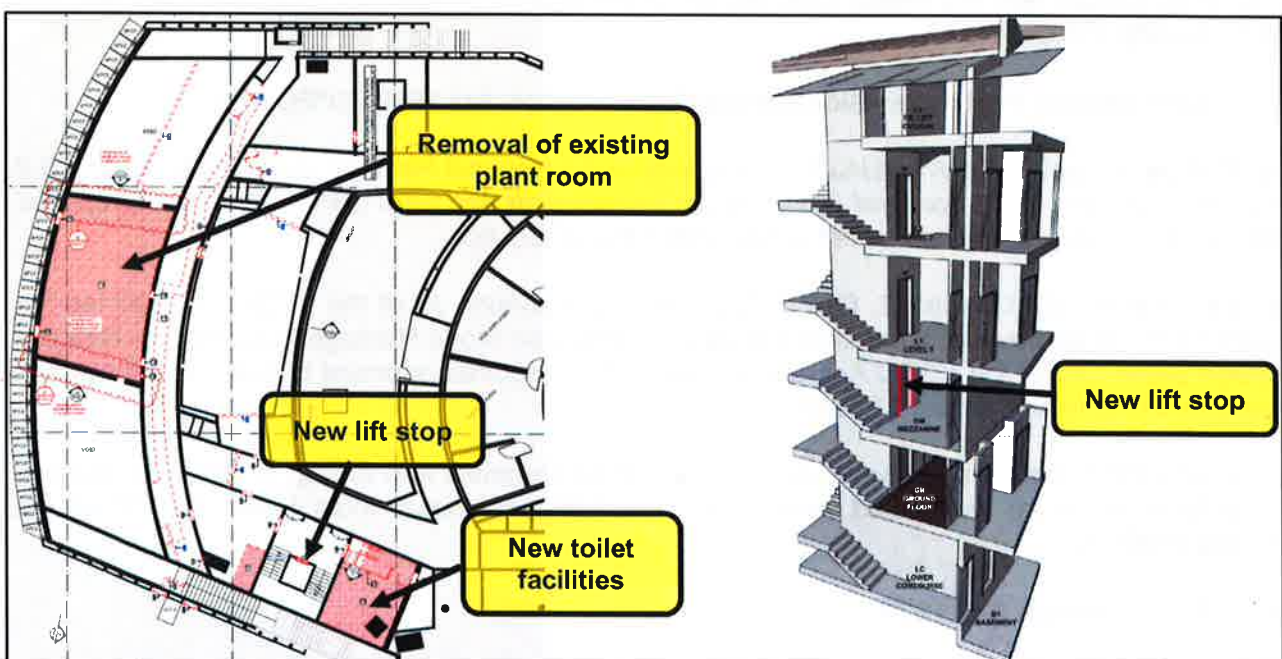


Figure 6. Proposed works to the mezzanine floor (Source: Applicant's RTS)

### 3. STATUTORY AND STRATEGIC CONTEXT

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#### 3.1 State Significant Development

The proposal is SSD pursuant to clause 1 of Schedule 2 of *State Environmental Planning Policy (State and Regional Development) 2011* (SRD SEPP), as it is development within the SOH site. Therefore, the Minister for Planning is the consent authority for the proposed development.

#### 3.2 Permissibility

Under the *Sydney Local Environmental Plan 2012* the site is zoned B8 Metropolitan Centre and the proposed development is permissible with consent.

#### 3.3 Delegated Authority

As the City of Sydney Council (Council) made an objection to the application, the Department has no delegation to determine the application. Consequently, only the Minister for Planning can determine the application.

#### 3.4 Sydney Opera House Conservation Management Plan 2005

Clause 288 of the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation) requires consent authorities to consider the *Sydney Opera House Management Plan (2005)* (SOH Management Plan) when determining development applications on the SOH site.

Section 6 of the SOH Management Plan specifies that the provisions of *A Plan for the Conservation of the Sydney Opera House and its Site (Third Edition) 2003* (the CMP) and the *Jørn Utzon's Design Principles 2002* (Utzon's Design Principles), should be relied upon to determine the impact of a project on the heritage values of the site. The CMP and Utzon's Design Principles are guiding policy documents for the on-going conservation and management of proposals to change the SOH.

The Department has considered the relevant provisions of these documents in its assessment of the proposal in **Section 5.1** of this report. The Department's assessment concludes the proposal would continue to comply with the relevant provisions of the SOH Management Plan, the CMP and the Utzon's Design Principles.

#### 3.5 Environment Protection Biodiversity Conservation Act 1999 (EPBC Act)

The SOH site is declared a World Heritage property and a National Heritage place under section 1.2 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). The proposed works were the subject of a controlled action under the EPBC Act.

Clauses 12 and 15B (Chapter 2, Part 3, Division 1, Subdivision A) of the EPBC Act outlines the requirements for approval of controlled actions on a declared World Heritage property or a National Heritage place. Under the EPBC Act, a controlled action requires approval by the Commonwealth Department of Environment and Energy.

On 20 June 2017, the Commonwealth Department of Environment and Energy granted its approval for the function centre works and relocation of the ballet rehearsal room under the EPBC Act (see **Appendix F**).

#### 3.6 The Heritage Act 1977

Section 89J of the EP&A Act states that approval under Part 4 of the *Heritage Act 1977* is not required for SSD proposals that have been granted development consent. However, in the case of the SOH,

the Applicant is still required to obtain a separate approval under Part 4 of the *Heritage Act 1977* following the granting of consent under Part 4 of the EP&A Act.

This requirement is identified in the *Sydney Opera House Management Plan (2005)*, and is required under clause 90, Schedule 6 and clause 16, Schedule 6A of the EP&A Act. The Applicant will therefore need to seek a separate approval from the Heritage Council of NSW under Part 4 of *Heritage Act 1977*, following the granting of any consent by the Minister for this application. The Department has recommended an Advisory Note to make clear the Applicant's responsibilities to gain further approval for the works under Part 4 of the *Heritage Act 1977*.

The Department has considered heritage issues in its assessment of the proposal in **Section 5.1** of this report. The Department's assessment concludes the proposal would not adversely affect the local, State, National or World heritage values of the SOH, and would comply with the relevant provisions of the SOH Management Plan.

### 3.7 Environmental Planning Instruments

The following environmental planning instruments (EPIs) apply to the site:

- *State Environmental Planning Policy (State and Regional Development) 2011* (SRD SEPP);
- *State Environmental Planning Policy (State Significant Precincts) 2005*;
- *State Environmental Planning Policy No 55 - Remediation of Land* (SEPP 55);
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005* (SREP); and
- *Sydney Local Environmental Plan 2012*.

An assessment of compliance with the above EPIs is provided at **Appendix B**. In summary, the Department is satisfied the application generally complies with the relevant provisions of the EPIs.

While development control plans (DCPs) do not apply to SSD under clause 11 of the SRD SEPP, consideration has also been given to relevant clauses of the Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005 in **Appendix B**.

### 3.8 Objects of the EP&A Act

Decisions made under the EP&A Act must have regard to the objects of the EP&A Act, as set out in section 5 of the Act. SSD 7881 is considered to be consistent with the objects of the Act, as the application will promote the orderly and economic use of the site. The Department has considered the objects of the EP&A Act in **Table 2** below and is satisfied that the proposal complies with all relevant objects.

**Table 2:** Consideration of the proposal against the objects of the EP&A Act

Objects of the EP&A Act	Consideration
(a) to encourage:	
(i) <i>the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment</i>	The proposal does not impact on natural and artificial resources, as it involves the development within an already disturbed urban area. The proposal will revitalise the existing function centre and northern broad walk area and in turn, will enhance the site as an iconic tourist destination.
(ii) <i>the promotion and co-ordination of the orderly and economic use and development of land</i>	The proposed development will facilitate the use of the function centre and the merits of the proposal are considered in <b>Section 5</b> .
(iii) <i>the protection, provision and co-ordination of communication and utility services</i>	The proposal is unlikely to impact on existing communication and utility services.

(iv) <i>the provision of land for public purposes</i>	The proposal will result in improvements to the northern broad walk through the removal of the existing intrusive marquee and the installation of removable bollards and umbrellas.
(v) <i>the provision and co-ordination of community services and facilities</i>	The proposal does not include the provision of community services and facilities.
(vi) <i>the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats</i>	The works are located within the SOH and on the existing hard stand northern broad walk.  The site does not contain any threatened species and their habitat.
(vii) <i>ecologically sustainable development (ESD)</i>	<b>Section 3.9</b> of this report considers the proposal against the principles of ESD.
(viii) <i>the provision and maintenance of affordable housing</i>	The proposal does not involve the provision / maintenance of affordable housing.
(b) <i>to promote the sharing of the responsibility for environmental planning between the different levels of government in the State</i>	The proposal is SSD in accordance with the SRD SEPP. The Department consulted with Council, NSW Heritage and other relevant agencies on the proposal.
(c) <i>to provide increased opportunity for public involvement and participation in environmental planning and assessment.</i>	<b>Section 4</b> sets out details of the Department's public exhibition of the proposal.

### 3.9 Ecologically Sustainable Development

The EP&A Act adopts the definition of ecologically sustainable development (ESD) from the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes and that ESD can be achieved through the implementation of:

- (a) *the precautionary principle;*
- (b) *inter-generational equity;*
- (c) *conservation of biological diversity and ecological integrity; and*
- (d) *improved valuation, pricing and incentive mechanisms.*

The Applicant has considered and addressed ESD principles as they relate to the proposal in Section 6.8 and Appendix 9 of the EIS. This describes the Applicant's approach to integrating energy efficient technologies and sustainable practices in the design, construction and ongoing operation of the development.

The Department has assessed the proposed development in relation to the ESD principles and has made the following conclusions:

- **Precautionary Principle** – the proposal will not result in any serious or irreversible environmental damage, as:
  - the proposal provides an opportunity to reinstate the original finishes within the function centre and will be undertaken carefully and sensitively
  - the proposed works will not involve significant construction works or operational activities that would give rise to air quality or water quality impacts.
- **Inter-Generational Equity** – the proposal will not result in adverse impacts on the health, diversity and productivity of the environment for the benefit of future generations, as the proposal considers existing environmental impacts in the area, such as noise impacts and it is not anticipated these issues will give rise to health, diversity or productivity issues.
- **Biodiversity Principle** – the proposal will have no significant impact on biodiversity or ecological value, as the site contains existing buildings. The site does not contain any threatened or vulnerable species, populations, communities or significant habitats.

- **Valuation Principle** – the proposal includes a number of energy, water and waste reducing measures that will reduce the ongoing operating costs of the development.

Having considered the objects of the EP&A Act, including the encouragement of ESD in its assessment of the application, the Department is satisfied that the proposal encourages ESD.

### 3.10 Strategic Context

The Department considers the proposal is consistent with the following State/regional/local strategies:

- the NSW State Priorities to create jobs, via the creation of 65 to 85 construction jobs
- the objectives of *Towards our Greater Sydney 2056* and *A Plan for Growing Sydney*, via the promotion and revitalisation of an iconic Sydney building by providing a better suited ballet rehearsal room and the opportunity to host events in the improved function centre
- the relevant priorities and actions of the Greater Sydney Commission's *Draft Central District Plan*, in particular:
  - a 'Productive City' by driving economic growth and contributing to job targets
  - a 'Sustainable City' by managing the potential impacts of the development on the environment.

### 3.11 Environmental Planning and Assessment Regulation 2000

Subject to any other references to compliance with the regulation cited in this report, the requirements for notification (Part 6, Division 6 of the EP&A Regulation) and fees (Part 15, Division 1AA of the EP&A Regulation) have been complied with.

### 3.12 Secretary's Environmental Assessment Requirements

In accordance with section 78A(8A) of the EP&A Act, the Secretary notified the Applicant of the environmental assessment requirements for the State significant development application (SSD 7881). The Department is satisfied the Applicant's EIS has adequately addressed compliance with the SEARs to enable a comprehensive assessment of the application for determination purposes.

## 4. EXHIBITION CONSULTATION AND SUBMISSIONS

### 4.1 Exhibition

Under section 89F(1)(a) of the EP&A Act, the Secretary is required to exhibit the EIS for at least 30 days. The Department publicly exhibited the application from Thursday 20 October 2016 until Friday 21 November 2016 (33 days) on its website, at its Sydney office and at the City of Sydney Council offices.

The Department also advertised the public exhibition in the *Mosman Daily* and the *Central Courier* on Wednesday 19 October 2016, and notified adjoining landholders, and relevant State and local government authorities in writing.

The Department received seven submissions during the exhibition of the EIS, comprising four submissions from public authorities and three public submissions. The submissions are summarised below.

### 4.2 Public Authority Submissions

**Table 3:** Summary of public authority submissions to the EIS

#### **Heritage Council of NSW (NSW Heritage)**

**NSW Heritage** did not object to the proposal, however, raised specific concerns in relation to:



- the heritage impacts associated with the removal of the internal radial walls in the function centre
- the relocation of the ballet rehearsal room would remove the last remaining original rehearsal space under the Joan Sutherland Theatre.

#### **City of Sydney (Council)**

**Council** objected to the proposal particularly in relation to the heritage impacts associated with the proposed works to the fabric of the SOH, the relocation of the existing ballet rehearsal room and the provision of additional event space in the SOH.

#### **Environment Protection Authority (EPA)**

**EPA** did not object to the proposal, however raised concerns in relation to the noise impact from the operation of the function centre and the northern broad walk and the proposed hours of construction. The EPA provided conditions of consent relating to the construction phase of the project.

#### **Transport for NSW (TfNSW)**

**TfNSW** did not object to the proposal and provided recommended conditions in relation to the preparation of a Construction Pedestrian and Traffic Management Plan and for consideration to be given to the cumulative impacts of construction projects in and around the SOH site.

### **4.3 Public Submissions**

The Department received three public submissions objecting to the proposal. The objections to the proposal relate to the noise impacts associated with the use of the function centre and northern broad walk and impact upon the heritage value of the SOH.

### **4.4 Applicant's Response to Submissions**

On 3 March 2017, the Applicant lodged its Response to Submissions (RTS) report that amended the openings to the interior walls and provided additional information to address the concerns raised during the exhibition period and to respond to key issues raised in submissions. In particular, the RTS detailed the following:

- the radial walls will no longer be fully removed and instead, openings to the walls would be provided;
- additional information in relation to the noise modelling undertaken as part of the noise impact assessment; and
- additional information outlining the relocation of the ballet rehearsal room.

The Department notified the agencies of the RTS and made the amended plans and associated documents publicly available. The Department received submissions from NSW Heritage, Council and the EPA. The submissions are summarised below.

**Table 4:** Summary of public authority submissions to the RTS

#### **Heritage Council of NSW (NSW Heritage)**

**NSW Heritage** did not object to the amended proposal and provided the following comments:

- the proposed openings to the interior radial walls are supported
- the relocation of the existing ballet rehearsal room is considered acceptable as it would provide the primary users with a better suited rehearsal space that would suit their needs
- the internal works would provide the opportunity to reinstate original finishes
- the new doors on the curved glass wall and the enlargement of the entry on the western side of the podium are supported
- the removal of the existing marquee on the northern broad walk is supported.

NSW Heritage recommended conditions of consent including the further refinement of design detail of the interior radial wall openings and the enlarged entry to the western wall and the nomination of a heritage consultant to oversee construction works.

#### **City of Sydney (Council)**

**Council** maintained its objection and reiterated the issues raised in its EIS submission particularly in relation to the following:

- the proposed enlargement of the single entry to the western wall would diminish the drama of the western elevation
- the provision of additional function space is contrary to the Utzon Design Principles which warn against introducing new uses
- the heritage impacts associated with the removal of significant fabric, particularly the interior walls
- the proposed relocation of the ballet rehearsal room would detract from the heritage value and primary function of the SOH
- the removal of the existing marquee is supported.

#### Environment Protection Authority (EPA)

The EPA did not object and provided recommended conditions of consent however, raised concerns relating to the noise methodology of operational noise impacts and does not consider 24-hour construction activity to be appropriate. The EPA provided conditions of consent relating to the construction phase of the project.

No further public submissions were received. The Department is satisfied key issues raised in submissions have been satisfactorily addressed in the RTS and subsequent additional information.

## 5. ASSESSMENT

### 5.1 Considerations under section 79C of the EP&A Act

**Table 5** identifies the matters for consideration under section 79(C) of the EP&A Act that apply to SSD. The EIS has been prepared by the Applicant to consider these matters and those matters detailed in the SEARs.

**Table 5:** Section 79C(1) Matters for Consideration

Section 79C(1) Evaluation	Consideration in this Report
(a)(i) any environmental planning instrument	The Department's consideration of the relevant EPIs is provided in <b>Section 3.7</b> and <b>Appendix B</b> of this report.
(a)(ii) any proposed instrument	Not applicable.
(a)(iii) any development control plan (not applicable to SSD)	Under clause 11 of the SRD SEPP, development control plans (DCP) do not apply to SSD. However, consideration has been given to the Sydney Harbour Foreshores and Waterways Area DCP at <b>Appendix B</b> .
(a)(iia) any planning agreement	Not applicable.
(a)(iv) the regulations	The development application meets the relevant requirements of the EP&A Regulation, including clause 288 that requires the provisions of the SOH Management Plan be taken into consideration by the consent authority. The procedures relating to development applications (Part 6 of the EP&A Regulation), public participation procedures for SSDs, and Schedule 2 of the EP&A Regulation relating to environmental impact statements have been satisfied.
(a)(v) any coastal zone management plan	Not applicable
(b) the likely impacts of that development	Impacts of the development are considered in <b>Section 5</b> of this report
(c) the suitability of the site for the development	<p>The proposal forms part of the SOH building renewal program aimed at maximising the SOH's economic and cultural significance as a tourist destination.</p> <p>The proposed works have been carefully designed to ensure there are no adverse impacts upon the built form and urban design of the SOH site. For these reasons, the site is considered to be suitable for the development.</p>

(d) any submissions	Consideration has been given to submissions received in <b>Section 4</b> of this report. Key issues raised in submissions have been considered further in <b>Section 5</b> of this report.
(e) the public interest.	The application is considered to be in the public interest as it would provide the opportunity for private functions and raise revenue for the SOH and therefore preserve the ability of the SOH to function as a performing arts centre and tourist attraction.
Biodiversity values exempt if:	
(a) On biodiversity certified land?	Not applicable
(b) Biobanking Statement exists?	Not applicable

## 5.2 Key Assessment Issues

The Department has considered the application, submissions and the Applicant's response to submissions and considers the key assessment issues are:

- heritage impacts on the fabric of the SOH; and
- noise impacts associated with the operation of the function centre.

Each of these key issues are discussed below. **Section 5.6** discusses the other issues that were taken into consideration in the assessment of the application.

## 5.3 Heritage impacts on the fabric of the SOH

The SOH site has local, State, National and World heritage significance requiring careful consideration of the impact of the proposed development on this significance. The SOH is a monumental sculpture in a picturesque setting with public spaces which are enhanced by vistas to the harbour and the city.

The SOH Management Plan, the CMP and Utzon's Design Principles provide the overarching framework for consideration of impacts to the heritage significance of the SOH. As such, the Department has considered the SOH's statement of significance, the relevant provisions of the SOH Management Plan, the CMP and Utzon's Design Principles in its assessment of the proposal. The key provisions of these documents, as they apply to the proposal, primarily relate to the continuing use of the SOH as a performing arts centre, its importance as a tourist attraction and considering the level of cultural heritage significance of fabric to be removed or altered.

The CMP acknowledges upgrade works that improve the function of the SOH could reinforce or enhance the significance of the SOH. Notwithstanding, any adaptation for functional improvement should retain the character of the original design of the SOH. In addition, the CMP identifies areas of the building of significant heritage value, areas that require restoration and elements considered as intrusive.

The key potential heritage issues associated with the proposal relate to the internal and external building works and the relocation of the ballet rehearsal room. The potential impacts of the proposed internal and external works to the SOH site are considered separately in **Section 5.3.1** and **Section 5.3.2**.

### 5.3.1 External works

The proposal seeks to undertake the following external building works to the function centre and the northern broad walk (**Figure 7 to 9**):

- removal of the existing marquee and the installation of ten removable umbrellas and bollards on the northern broad walk
- installation of external speaker points at the northern glass facade
- two new glazed doors to the existing glass curved wall adjoining the northern broad walk
- enlarge the existing single door entry on the western wall to a double door.

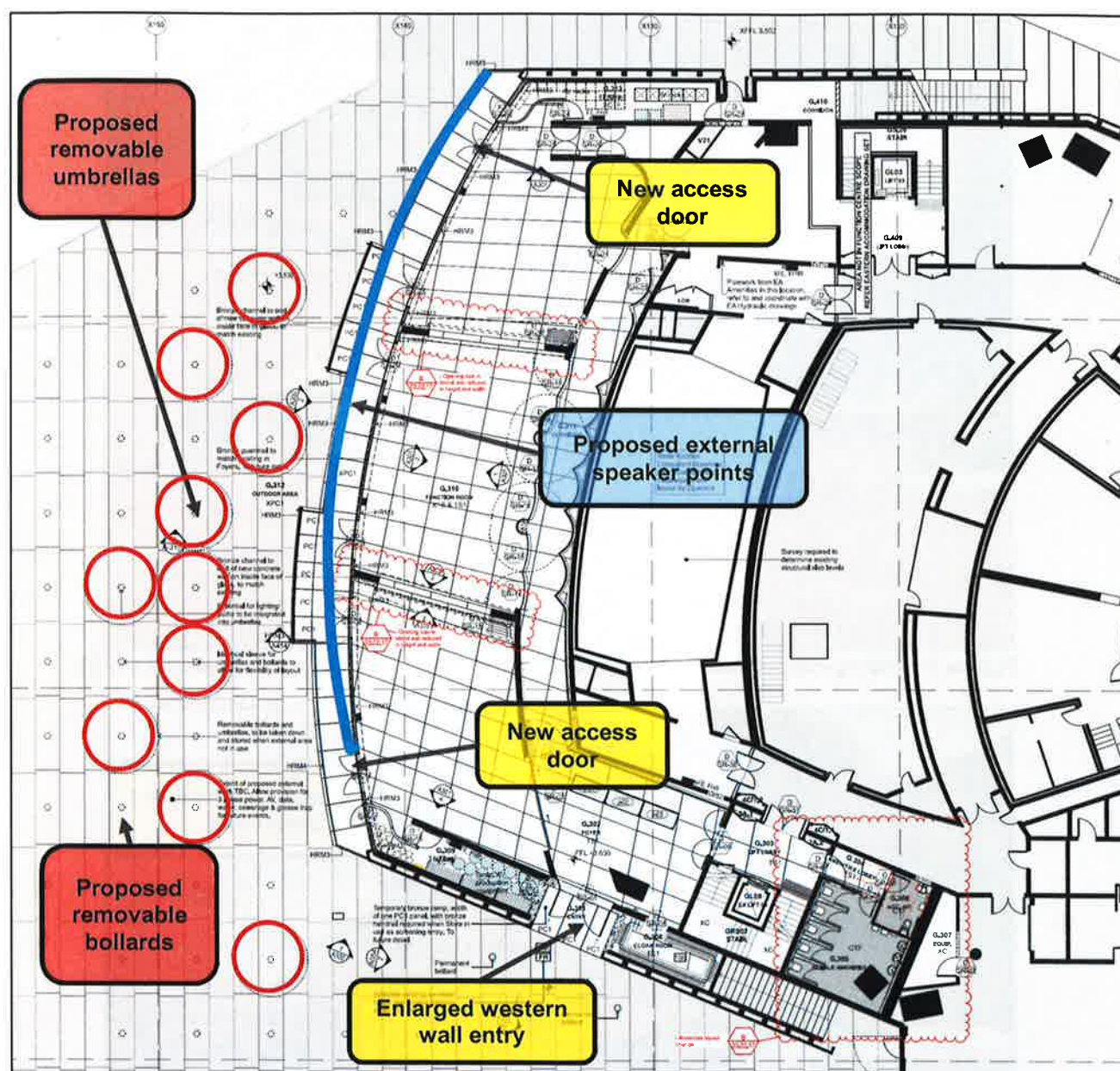


Figure 7. Proposed external works (Source: Applicant's RTS).

The proposed external works are considered separately below.

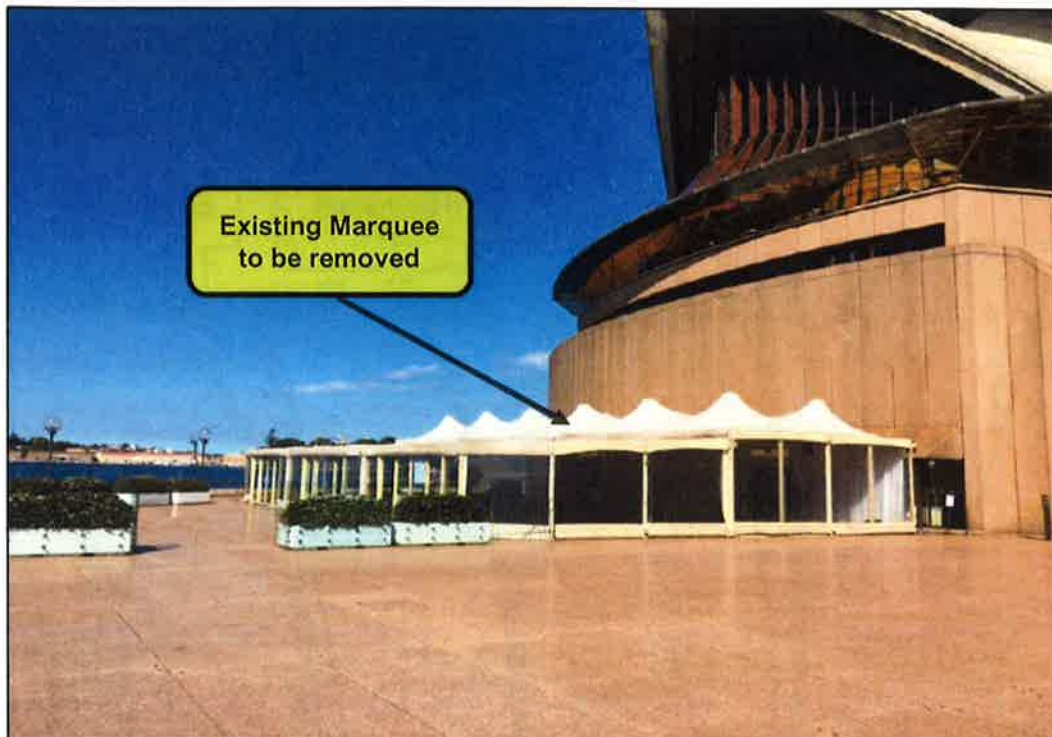
#### Removal of marquee and installation of removable umbrellas

The existing marquee on the northern broad walk was used for events as part of the pre-existing consent. The proposal seeks to remove the marquee and install ten removable square umbrellas (3.2 m by 3.2 m) with a maximum height of 3.35 m (Figure 9). The removable umbrellas and bollards will be used in conjunction with events in the function centre and will be stored away when not in use.

The Heritage Impact Statement (HIS) in the EIS provides a detailed assessment of the proposed external works on the cultural and heritage significance of the SOH, in accordance with the CMP and Utzon's Design Principles.

The CMP identifies the existing marquee as being intrusive as it obscures the northern exterior of the podium. The removal of the marquee and use of removable umbrellas and bollards is consistent with CMP policy 11.1 which states the broad walk should be kept free of permanent structures and that any structures should be kept at a minimum and be designed to be erected and dismantled.





**Figure 8.** Existing marquee on northern broad walk to be removed (Source: Applicant's EIS)



**Figure 9.** Proposed removable umbrellas in the northern broad walk (Source: Applicant's EIS)

As such, the HIS considers the proposed removal of the marquee will have a positive impact as it will improve views to SOH and reduce clutter on the broad walk. In addition, the proposed removable umbrellas and bollards are consistent with the CMP.

NSW Heritage and Council support the removal of the marquee and consider its removal would significantly improve the setting of the SOH and views to the northern façade of SOH.



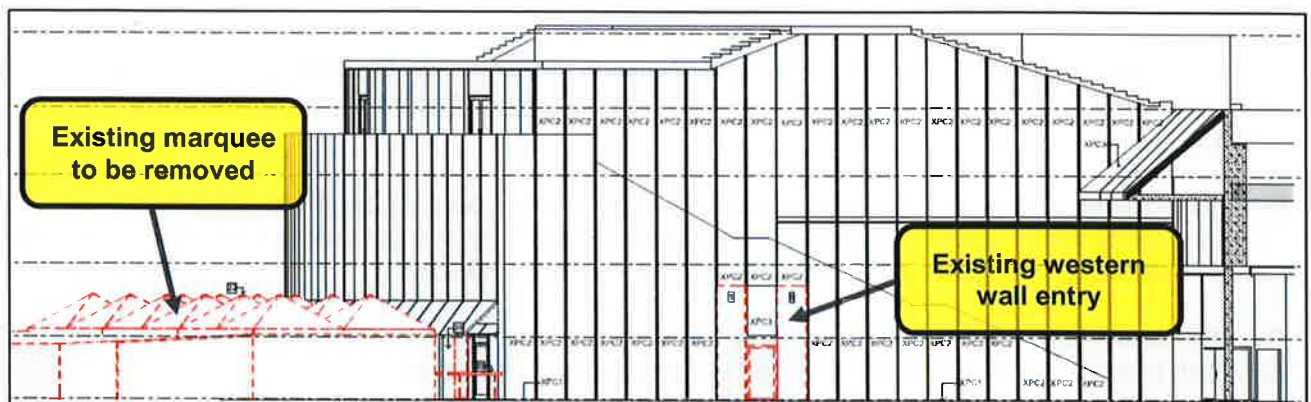
The Department considers the removal of the marquee and installation of removable umbrellas will not have adverse impacts on the heritage significance of the site as:

- the removal of the existing marquee from northern broad walk is consistent with the CMP and will improve views to SOH and reduce visual clutter
- the proposed removable umbrellas and bollards will only be used in conjunction with the function centre, stored when not in use and will not detract from the SOH.

The Department has recommended conditions to ensure the umbrellas and bollards are to be stored away when not in use and are not able to connect to form a larger canopy to ensure the northern broad walk retains its open character.

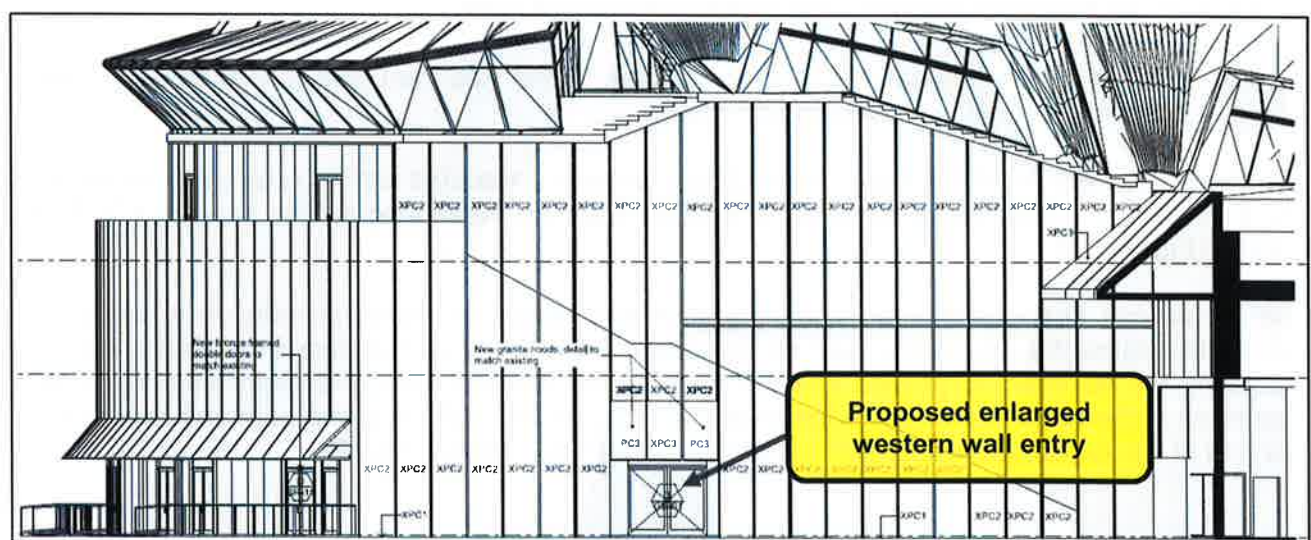
#### Works to SOH fabric

The proposal seeks to provide two bronze framed glazed doors to the northern glass curved wall and enlarge the existing single door entry to the western wall to a double door entry, which will match existing materials and details.



**Figure 10.** Existing western wall entry (Source: Applicant's EIS)

The Department acknowledges NSW Heritage support the proposed doors to the northern glass wall and the enlarged entry to the western wall subject to further refinement of the design detail. Further, NSW Heritage are satisfied the new western wall openings will match the existing materials and details (see **Figures 10 and 11**). However, Council object to the enlargement of the entry on the western wall. Council consider these works would diminish the drama of the western elevation provided by its singular narrow entry.



**Figure 11.** Proposed western wall entry (Source: Applicant's RTS)

The Department notes Council's concern, however considers the scale relationship between the western wall elevation and the existing singular entry when compared to the proposed enlarged

double door entry would largely remain unchanged. The proposed enlarged western wall entry would therefore retain the principal character and overall visual quality of the western elevation.

The Department considers the proposed works to the SOH fabric will not have adverse impacts on the heritage significance of the site as:

- the new openings have been designed in consultation with the SOH Eminent Architect Panel and heritage advisor and will match the existing materials and detail
- the scale of the western wall and proposed enlarged entry will retain the scale and visual quality of the western elevation
- the new openings will improve functionality of the function centre.

The Department also notes the Applicant will be required to undertake further detailed resolution of the design for these works as part of the Section 60 Application under Part 4 of the *Heritage Act 1977*. The Department therefore supports the proposed external works to the SOH fabric.

### 5.3.2 Internal building works

The proposal seeks to undertake works for a renewed function centre and to convert the existing ballet rehearsal room into a new production kitchen that would support the function centre and other foyers and bars.

The internal area that will accommodate the proposed function centre comprises the existing function room, an office and a kitchen. These spaces are separated by two concrete radial walls which will contain openings to facilitate interconnection of the separate spaces.

The HIS provides a detailed assessment of the proposal on the cultural and heritage significance of the SOH, in accordance with the CMP and Utzon's Design Principles.

The HIS and CMP identifies the internal building works as having high heritage significance. In particular, the two radial walls are identified as original Utzon fabric and the existing ballet rehearsal room is the last remaining original rehearsal room beneath the JST. The internal works to the function centre and relocation of the ballet rehearsal room are considered separately below.

#### Alterations and additions to the function centre

The proposal initially sought to completely remove two radial walls to accommodate the function centre. NSW Heritage and Council did not support the removal of these walls as it was considered to have an unacceptable impact on the significant fabric of SOH.

The Department shared these concerns and requested the Applicant give further consideration to the treatment of the function centre and its original fabric.

In consultation with NSW Heritage, the Applicant prepared amended architectural plans as part of its RTS to retain the two internal walls and introduce openings measuring 5.77 m in width x 3.65 m in height (**Figure 12**).

NSW Heritage supports the amended proposal and notes the works provide an opportunity to reinstate original face concrete finishes. However, NSW Heritage has recommended a condition requiring the Applicant to provide it with further design detail of the works associated with cutting openings in the radial walls (e.g. edge finishing, required strengthening and paint removal method) as part of the Applicant's section 60 application under the *Heritage Act 1977*.



**Figure 12.** Proposed function centre (Source: Applicant's RTS)

Council maintains its objection as it considers the works to the function centre would result in the loss of significant fabric and are contrary to Utzon's vision for the SOH as it would introduce additional functions to the SOH.

Council also raised concern the expanded function centre would take up a part of the area originally occupied by the Harbourside restaurant which is identified in the CMP as having considerable significance. While the works will not preclude a restaurant occupying this area in the future through the adaptive re-use of the kitchen and dining areas, it is noted that SOH is currently serviced by an internationally renowned restaurant ('Bennelong') and other food and beverage outlets. The Department therefore does not consider an additional restaurant is necessary.

The Department further notes the existing function centre space was designed as part of the original fabric of the building and is currently used for catered events. Hence, the Department considers the proposal comprises the adaptation and enlargement of the existing function centre use rather than a new and separate use to the SOH.

The proposed location of the function centre has also been identified by the CMP as suitable for some form of food and beverage facility. However, the CMP notes that any such facility must not have any additional enclosed or semi-enclosed structure external to the podium. The proposal is consistent with this approach.

The Department acknowledges the works provide an opportunity to restore the original finishes within the function room, particularly in relation to exposing the original face concrete, as noted by NSW Heritage.

To ensure the proposal does not result in significant fabric being removed without prior approval, the Department has recommended a condition requiring the Applicant engage a heritage consultant who will be required to identify significant pieces to be archived, oversee building works and provide ongoing advice.

The Department is satisfied the alterations to the internal radial walls are acceptable, and notes that the Applicant will be required to undertake further detailed resolution of the design as part of the



Section 60 Application under Part 4 of the *Heritage Act 1977*. The Department also notes the Commonwealth Department of Environment and Energy has granted its approval for the function centre works under the EPBC Act, subject to the Applicant resolving the dimensions and finishes of the function centre internal radial wall openings with the written support by the Eminent Architects Panel, Sydney Opera House Heritage Architect and Conservation Council.

The Department is therefore satisfied that subject to the recommended conditions, the proposed internal works and use of the area will not have adverse impacts on the heritage significance of the site as:

- the wall openings maintain views and interpretation of the original materials and fabrics of the space, including the ceiling wobbly panels and original radial walls
- the enlarged function centre does not form a new or separate use within the SOH.

#### Relocation of the Ballet Rehearsal Room

The proposal includes the conversion of the existing ballet rehearsal room into a kitchen to service the proposed function centre. The ballet rehearsal room will be relocated to the south-eastern side of the SOH which is currently occupied by a staff training and meeting room (**Figure 13**).



**Figure 13.** Proposed ballet rehearsal room (Source: Applicant's EIS)

The HIS identifies the existing ballet rehearsal room as the last remaining original rehearsal room beneath the JST. As such, the proposal seeks to relocate the fitout of the existing rehearsal room to the proposed space and in a similar configuration. The HIS therefore considers the proposal would retain a connection with the original space.

Council objected to removing the last remaining rehearsal room from beneath the JST as it would be inconsistent with Utzon's concept for rehearsal spaces to be located beneath their related auditoriums. Council also considered the relocation of the rehearsal room would prioritise the function use over the performing arts, diminishing the primary use and function of the SOH.

NSW Heritage did not object to the relocation of the rehearsal room, however raised concerns the proposal would impact upon the space's historical association with the building.

The Applicant has responded noting Utzon's concept for rehearsal spaces was never realised because the main rehearsal room for the JST is located under the Concert Hall. This space would be unaffected by the proposal, and while the main rehearsal room is referenced in the CMP, the rehearsal room affected by the proposal is not.

The primary users of the existing space, The Australian Ballet, have outlined their support for the relocated rehearsal room and note the existing room does not have sufficient space to meet its current requirements and consider the proposed room is the correct size and orientation to enable full rehearsals.

NSW Heritage acknowledged the primary users of the space support the proposal and it meets the changing nature and operational needs of the SOH.

The Department considers the proposed relocation of the rehearsal room will not have adverse impacts on the heritage significance of the site as:

- the proposal would not affect the main rehearsal room for the JST
- the proposed relocation of the ballet rehearsal room would provide an improved space for the primary users and improve the function of the SOH as a performing arts centre
- the use of the existing fitout in the proposed space will retain an association with the original space.

The Department is satisfied the proposed internal and external works to the SOH are generally consistent with the relevant policies in the CMP and the Utzon Design Principles, and would not adversely affect the local, State and National heritage values of the SOH, or the outstanding universal values that underpin its World Heritage Listing. The Department therefore supports the relocation of the ballet rehearsal room.

## 5.4 Operational Hours and Noise

The proposal seeks to utilise the function centre and northern broad walk for events including weddings, conferences and cocktail receptions. The events would include amplified speech and background music and are proposed to operate from 6 am to 1.30 am, with all external activities on the northern broad walk to cease at 12 midnight. The number of patrons would typically range from 230 for seated dining functions to a maximum of 500 patrons for standing functions such as cocktail receptions. The proposed operational details are detailed below in **Table 6**. The table also describes the operational parameters for the pre-existing consent for the use of the northern broad walk.

**Table 6.** Operational details of the pre-existing consent and the proposal.

Aspect	Prior consent	Proposed
Hours of Operation	8 am to 12 midnight (limited occasions where events could commence at 6.30 am)	Internal activities: 6 am to 1.30 am External activities: 6 am to 12 midnight
No. of Patrons	Maximum 1000	Maximum 500
Frequency of events	250 patron event: up to 144 days per month  1000 patron event: up to 40 days per year	No limit proposed

The closest residents are in Kirribilli, over 500 m across Sydney Harbour to the north of the site, and in a mixed-use residential apartment building (Bennelong Apartments) which connects to the southern boundary of the site approximately 140 m to the south-west of the SOH building (**Figure 14**). The Department received a submission from a Kirribilli resident which raised noise concerns from events on the northern broad walk. The Department has therefore, carefully considered potential noise impacts of the function centre on these nearby residents.



The Department notes the pre-existing consent that permitted temporary functions on the northern broad walk (DA 444-10-2003) included a suite of noise management conditions including restrictions on the number of patrons, hours of operation, noise limits for sound amplification and frequency of events.

The noise levels were limited by receiver based noise criteria set at Kirribilli which only allowed for noise above background levels between 10 pm to 11 pm, Sunday to Thursday and 10 pm to 12 midnight, Friday, Saturday and prior to a public holiday.



**Figure 14.** Site location and the sensitive noise receivers labelled in blue (Source: Applicant's EIS)

The EIS included a Noise Impact Assessment (NIA) that assessed the noise impacts on the residents in Kirribilli and the Bennelong Apartments. The NIA considered a range of events with sound amplification for the use of the indoor area only and the worst-case scenario of a maximum 500

patrons on the northern broad walk with adverse weather conditions (i.e. wind blowing towards receivers).

The NIA detailed that the noise generated by the proposal would be well below the existing background noise level when measured at the Bennelong apartments located to the south of the site as the podium itself acts as a physical noise barrier. The NIA also predicted sound amplification for indoor events would result in noise levels more than 15 dB below the background noise level at both Kirribilli and the Bennelong apartments. As such, the NIA considered the key potential noise impact to be outdoor events with sound amplification utilising the northern broad walk on residents in Kirribilli.

The EPA did not object to the proposal, however raised concerns regarding the use of the noise criteria in the prior consent to consider the operational noise impacts. The EPA instead recommended the noise criteria be derived from the *Industrial Noise Policy* (INP). Council did not raise any concerns in relation to potential noise impacts.

The Department notes the INP is primarily used to provide guidance on the measurement and assessment of noise and acceptable noise levels for industrial activities rather than event-based noise impacts. The Department has therefore sought to establish an appropriate methodology other than the INP but also addressing the concerns of the EPA and nearby residents.

The Department notes the pre-existing consent for events on the northern broad walk managed noise through receiver-based noise at Kirribilli. Although due to the distance of Kirribilli from the SOH and intervening meteorology, the noise levels are highly impacted by external noise sources such as ferries, vessels, trains, cars and pedestrians. This creates difficulty in assessing compliance with noise levels.

The Department therefore considered it beneficial for noise levels to be measured closer to the noise source (i.e. at the SOH itself). This method would have the following key benefits:

- the prior noise limits at receiver will not change
- allows for more accurate identification of noise at the source which can be confidently attributed to the event (i.e. no background noise contamination)
- provides regulatory certainty as noise levels at source can be extrapolated to estimate noise levels at receivers
- allows for proactive management of potential exceedances and quicker corrective action to noise complaints.

The Department met with the Applicant to discuss noise measurement and management closer to the source. It was agreed that setting noise limits at the northern boundary of the northern broad walk would improve noise management and monitoring procedures. However, the Department is cognisant of the pre-existing consent and is mindful that the previous at receiver noise limits must not be exceeded by the changes to how noise would be measured.

In order to implement noise management levels that do not exceed the prior noise criteria, the amended NIA converted the pre-existing noise measurement criteria at Kirribilli to the equivalent measurement at the boundary of the northern broad walk using calculations of distance attenuation (see **Table 7** and **Appendix D**).

The Department notes the pre-existing consent imposes noise criteria from 10 pm to 11 pm on Sunday to Thursday and 10 pm to 12 midnight on Friday, Saturday and prior to public holidays. The proposal now seeks to impose the noise criteria from 10 pm to 12 midnight 7-days-a-week.



**Table 7.** Pre-existing noise criteria at Kirribilli when measured at the SOH.

Time	Pre-existing Noise Criteria at Kirribilli	Equivalent Noise Criteria when measured at SOH (dBLAeq 5 min)
Sunday to Thursday: • 10 pm – 11 pm	<ul style="list-style-type: none"> <li>• L<sub>A</sub>max 55 dB(A)</li> <li>• L<sub>C</sub>max 70 dB(C)</li> </ul>	<ul style="list-style-type: none"> <li>• 62 dBLAeq, 5min and</li> <li>• 77 dBLCeq, 5min</li> </ul>
Friday, Saturday and eve of Public Holiday: • 10 pm – 12 midnight		
All other times	Not to exceed background noise level	

The Department acknowledges the proposed noise measurements are equivalent to the existing background noise level at Kirribilli and therefore, the Department considers the proposed function centre events being undertaken 7-days a week is acceptable. However, the Department has considered Council's *Sydney Late Night Trading Premises DCP 2007* which imposes trial periods for any extended hours to enable the review of conditions following changes in noise management.

To enable the Department to measure and review the ongoing management performance and its impact on neighbourhood amenity, it is recommended the external hours of function centre between 11 pm and 12 midnight are subject to a two year trial period to enable the Department to review the impacts of the function centre's external areas on neighbourhood amenity.

The Department has also recommended a condition that requires the Applicant to prepare a Noise Management Plan requiring outlining noise management procedures, including the cessation of external activities at midnight, the closure of doors to minimise noise and the directional arrangement of external speakers.

The Department therefore concludes, subject to conditions, the adoption of new noise criteria and extended hours of operation will not result in adverse noise impacts for the following reasons:

- the prior noise criteria at Kirribilli, for the period from 10 pm to 12 midnight, do not exceed the existing background noise level
- the proposed increase in the hours of operation and frequency of events will not exceed the existing background noise level
- the proposed noise limits and noise monitoring at the northern broad walk will improve noise management and response times
- the northern broad walk would be used in conjunction with the function centre, the two spaces would not be used separately
- the SOH has committed to managing sound amplification to ensure a quicker response time and minimise impact upon other activities being undertaken in other parts of the SOH site.

## 5.6 Other issues

**Table 8:** Assessment of other issues

Issue	Consideration	Recommendation
Construction Noise	<ul style="list-style-type: none"> <li>• Construction is proposed to take place on a 24-hour, 7-days-a-week basis in order to allow the SOH to operate with minimal disruption.</li> <li>• The EIS outlines the following work program: <ul style="list-style-type: none"> <li>▪ 6 pm to 11.30 pm – quieter activities that would be compatible with live performances</li> <li>▪ 11.30 pm to 10.30 am – works which would be disruptive to the operations of the SOH</li> <li>▪ 10.30 am to 6 pm – general construction works and no major noise generating activities.</li> </ul> </li> </ul>	<p>The Department has recommended conditions requiring:</p> <ul style="list-style-type: none"> <li>• preparation of a Construction Noise and Vibration Management Plan outlining management and mitigation</li> </ul>

Issue	Consideration	Recommendation
	<ul style="list-style-type: none"> <li>• The Applicant has committed to preparing a Noise Management Plan and monitoring noise during construction.</li> <li>• EPA did not support 24-hour construction and raised concerns the construction works undertaken during the night time periods would impact upon the nearby sensitive receivers.</li> <li>• EPA consider the Applicant should ensure all demolition, site preparation and construction works likely to be audible at noise sensitive receivers should be undertaken during standard construction hours, as far as practicable, especially night work, which should be restricted to not more than two nights during a single week.</li> <li>• EPA also recommended the Applicant notify any noise sensitive receivers who will be affected by works proposed to be undertaken outside of standard construction hours.</li> <li>• The Department notes the majority of the proposed works are internal and contained within the SOH building, and would therefore be inaudible to surrounding receivers. On this basis, the Department considers the internal building works can be undertaken on a 24 hours a day, 7 days a week basis.</li> <li>• However, the Department notes the proposal also includes some external building works (including the new openings to the curved glass wall and the enlarged opening to the western side of the podium) which could result in impacts to surrounding sensitive receivers.</li> <li>• The Department considers that the external building works should be undertaken within standard construction hours.</li> </ul>	<p>measures to minimise impacts on nearby receivers</p> <ul style="list-style-type: none"> <li>• construction to be undertaken during standard hours from 7 am and 6 pm (Monday to Friday) and between 8 am and 1 pm (Saturdays), with no work on Sundays and public holidays</li> <li>• only undertake construction works outside standard hours where they are wholly enclosed within the building.</li> </ul>
Traffic	<ul style="list-style-type: none"> <li>• The proposed construction works would generate up to 28 truck movements per day in the following times: <ul style="list-style-type: none"> <li>▪ 10 pm to 7 am (night): up to three movements</li> <li>▪ 7 am to 6 pm (day): up to 20 movements</li> <li>▪ 6 pm to 10 pm (evening): up to five movements.</li> </ul> </li> <li>• Trucks would utilise Macquarie Street to access the existing underground loading dock.</li> <li>• The majority of construction vehicle movements would occur during the day to minimise any potential noise and traffic impacts on the residences to the south of the SOH.</li> <li>• Minimal truck movements would occur at night (up to 3) which would have a negligible impact on the surrounding road network and residential amenity.</li> <li>• Trucks will not be permitted to stand on Macquarie Street and all vehicles would be parked within the site to reduce potential amenity impacts to nearby residences.</li> <li>• The Department considers the proposed truck movements would have minimal impact on the amenity of the nearby residences and a negligible impact on the performance of the surrounding road network.</li> </ul>	<p>The Department has recommended a condition requiring the Applicant to prepare an Access and Traffic Management Plan outlining management and mitigation measures to minimise amenity impacts on nearby receivers, particularly truck movements, truck parking and noise mitigation measures.</p>
Waste Management	<ul style="list-style-type: none"> <li>• Waste would be recycled where possible and a Waste Management Plan would be prepared in accordance with the <i>NSW Waste Avoidance and Resource Recovery Strategy 2014-2021</i>.</li> <li>• Asbestos would be removed in accordance with the SOH Asbestos Risk Management Plan, SOH Hazardous Materials Action Plan and relevant Australian Standards.</li> <li>• The Department considers the existing SOH Management Plans would ensure all waste be removed appropriately.</li> </ul>	<p>The Department has recommended a condition requiring the Applicant to prepare a Waste Management Plan to ensure any hazardous waste is removed in accordance with the relevant SOH Management Plans.</p>

<b>Issue</b>	<b>Consideration</b>	<b>Recommendation</b>
<b>Access and Pedestrian Safety</b>	<ul style="list-style-type: none"> <li>• All deliveries and removal of materials would be via the underground loading dock (accessed from Macquarie Street).</li> <li>• There would be no interface between the public and the proposed works.</li> <li>• The Department considers the development would not have an adverse impact on pedestrian movement and access to/from the SOH.</li> </ul>	No recommendation required.

## 6. CONCLUSION

The Department has assessed the merits of the proposal taking into consideration the issues raised in all submissions, including the objections and concerns raised by Council, and is satisfied the impacts have been satisfactorily addressed within the Applicant's EIS, RtS and the Department's recommended conditions.

The Department notes the proposal would provide the SOH with a high-quality function centre with enhanced business opportunities, enhance the SOH as an iconic tourist destination and would accommodate the rehearsal needs of The Australian Ballet.

The Department acknowledges the works would result in some impacts on spaces and fabric within the SOH. However, they have been sensitively designed in consultation with the SOH Eminent Architect Panel and NSW Heritage to balance the need to both minimise these impacts while providing for the contemporary needs and functions of the SOH. In particular, the removal of the marquee will improve views to the SOH site and the treatment to the internal wall openings will maintain the relationship with the original fabric of the space.

The Department is therefore satisfied the proposed works are consistent with relevant policies in the CMP and the Utzon Design Principles, and would not adversely affect the local, State, National heritage values of the SOH, or the outstanding universal values that underpin its World Heritage Listing.

To ensure the proposed works minimise impacts on fabric within the SOH and minimise impacts during construction and operation, the Department has recommended the following conditions:

- a nominated heritage consultant is to be engaged to oversee demolition works and provide advice to tradespeople undertaking the work during the construction period
- the removable umbrellas and bollards on the northern broad walk are to be stored when not in use and not have the ability to connect
- surrender of the development consent for DA 444-10-2003 (as modified)
- a Noise Management Plan is to be prepared to mitigate and manage potential construction and operation noise impacts on nearby sensitive receivers.

The Department notes the works have been approved by the Commonwealth Department of Environment and Energy under the EPBC Act. However, the Applicant will be required to obtain further approval for the proposed works from the Heritage Council under Part 4 of the *Heritage Act 1977*.

The Department considers the proposal is in the public interest as it would allow the SOH to continue to operate as an iconic tourist destination. The proposal would also enable the northern broad walk to be used by the public when not in use for functions, and potential impacts from the operation of the function centre are minor and can be appropriately managed.

The Department's assessment concludes the proposal would not result in any unacceptable heritage impacts and recommends the application be approved, subject to the conditions outlined in the development consent.



## 7. RECOMMENDATION

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It is recommended that the Minister for Planning:

- a) **consider** the findings and recommendations of this report
- b) **grant consent** to the Stage significant development application (SSD 7881), subject to conditions, under section 80(1)(a) of the *Environmental Planning and Assessment Act 1979*
- c) **sign** the Development Consent at **Appendix C**.

Prepared by: Andrew Hartcher  
Key Sites Assessments

Endorsed by:



Anthea Sargeant 18/7/17  
**Executive Director**  
**Key Sites and Industry Assessments**

Endorsed by:



Stephen Murray 18 July 2017  
**Acting Deputy Secretary**  
**Planning Services**

Approved by:



Anthony Roberts  
**Minister for Planning**

1/8/2017

## **APPENDIX A     SUPPORTING INFORMATION**

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The following supporting documents (EIS, RTS) and supporting information to this assessment report can be found on the Department of Planning and Environment's website as follows.

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=7881](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7881)

## **APPENDIX B      CONSIDERATION   OF   ENVIRONMENTAL   PLANNING INSTRUMENT(S) (INCLUDING DRAFT) AND DCP(S)**

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### **Relevant EPIs and DCPs include:**

- *State Environmental Planning Policy (State and Regional Development) 2011*
- *State Environmental Planning Policy (State Significant Precincts) 2005*
- *State Environmental Planning Policy 55 – Remediation of Land*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*
- *Sydney Harbour Foreshores Area Development Control Plan 2005*
- *Sydney Local Environmental Plan 2012.*

*Note: Clauses within the above EPIs and DCPs that are not relevant to the application or have been considered in Section 5 of this report have been omitted from the below assessment.*

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

The proposal is SSD pursuant to clause 1, Schedule 2 of the SRD SEPP, as it is development within the SOH site. Therefore, the Minister for Planning is the consent authority for the proposed development.

### **State Environmental Planning Policy (State Significant Precincts) 2005 (SSP SEPP)**

The SOH is listed as a State Significant Precinct under Part 1 of Schedule 3 of the SSP SEPP, which lists a range of exempt development provisions which apply to the SOH.

As the proposal involves alterations and additions to the existing function centre and ballet rehearsal room, which do not fall within the exempt development provisions, the proposal therefore requires development consent.

The Department's assessment concludes the proposed works will not result in adverse heritage impacts to the SOH and that the proposal is consistent with the key aims of the SSP SEPP.

### **State Environmental Planning Policy No 55 - Remediation of Land (SEPP 55)**

SEPP 55 aims to provide a State wide approach to the remediation of contaminated land. Clause 7 of SEPP 55 prevents a consent authority from issuing development consent unless it has considered:

- whether the subject site is contaminated;
- whether a contaminated site is suitable for its proposed use in its current state, or will be suitable following remediation; and
- whether it is satisfied that the site will be remediated before the land is used for the purpose proposed under the application.

No contamination issues have been identified and no remediation works are proposed as part of the application. All proposed works are generally located within the existing SOH building, and the site is considered suitable for the proposed ongoing uses outlined in the application. Additionally, the Department has recommended conditions for the Applicant to implement procedures for identifying and dealing with unexpected contamination on site, including asbestos and lead based paint materials. The Department therefore concludes that the proposal is consistent with the requirements of SEPP 55.

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

Consideration of the relevant clauses in the SREP (Sydney Harbour Catchment) 2005 is addressed in **Table 2** below.

**Table 2:** Consideration of SREP (Sydney Harbour Catchment) 2005

<b>SREP (Sydney Harbour Catchment) 2005</b>	<b>Criteria</b>	<b>Department Comment / Assessment</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>	<ul style="list-style-type: none"> <li>The proposed works are located within the SOH Buffer Zone as identified on the relevant map.</li> </ul>
<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.</li> </ul>	<ul style="list-style-type: none"> <li>Although the W1 Maritime Waters zone is adjacent to the site, no works will be carried out in the zone.</li> </ul>
<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>	<ul style="list-style-type: none"> <li>The Department has considered the relevant matters below.</li> </ul>
<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>	<ul style="list-style-type: none"> <li>The proposal would have a negligible impact on biodiversity, ecology or the natural environment.</li> </ul>
<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>	<ul style="list-style-type: none"> <li>Public access along the foreshore would be maintained and public access to the waterway would not be affected.</li> </ul>
<b>Part 3, Clause 23 Maintenance of a working harbour</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 working harbour.</li> </ul>	<ul style="list-style-type: none"> <li>The proposal would not impact on the maintenance of a working harbour.</li> </ul>
<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>	<ul style="list-style-type: none"> <li>The proposal does not include any opportunities for waterway access and would not impact on the use of the waterway.</li> </ul>
<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>	<ul style="list-style-type: none"> <li>The proposed works are internal and as such, there would not be any impacts on the scenic quality of the foreshore and waterway.</li> </ul>
<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>	<ul style="list-style-type: none"> <li>The proposed works are internal and as such, there would not be any view impacts.</li> </ul>
<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>	<ul style="list-style-type: none"> <li>The proposed development is of a type that does not require referral to the Advisory Committee.</li> </ul>



<b>Part 4, clause 40 Strategic Foreshores Areas</b>	<ul style="list-style-type: none"> <li>Division 1 - Requirements for Masterplans.</li> <li>This Division applies to development that is carried out on a strategic foreshore site.</li> </ul>	<ul style="list-style-type: none"> <li>The SOH site identified as a strategic foreshore site on Sheet 3 (City Foreshore Area).</li> </ul>
<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>	<ul style="list-style-type: none"> <li>The Department's assessment in <b>Section 5.1</b> of this report concluded the modified proposal would not adversely impact on the world heritage significance of the SOH.</li> <li>Recommended conditions requiring the engagement of a heritage consultant during construction works would ensure the removal of any significant fabric require prior approval.</li> </ul>

### Sydney Local Environmental Plan 2012 (Sydney LEP)

Consideration of the relevant controls contained within the Sydney LEP is provided below in **Table 3**.

**Table 3: Sydney LEP Compliance Table**

<b>City of Sydney LEP 2012</b>	<b>Objectives</b>	<b>Department Comment/ Assessment</b>
Clause 2.3 Zone objectives and Land Use Table	<ul style="list-style-type: none"> <li>The site is zoned B8 Metropolitan Centre.</li> <li>The objective of the zone is to recognise and provide business, office, retail, entertainment and tourist premises.</li> </ul>	<ul style="list-style-type: none"> <li>As the proposed works relate to alterations and additions to an existing entertainment facility, they are permissible with consent in the B8 Metropolitan Zone.</li> </ul>
Clause 5.10 Heritage Conservation	<ul style="list-style-type: none"> <li>Conserve environmental heritage, heritage items, archaeological sites, Aboriginal objects and places of significance.</li> </ul>	<ul style="list-style-type: none"> <li>The Department has assessed the heritage impacts of the proposal in <b>Section 5.1</b> of this report.</li> <li>The Department's assessment concluded the proposal would not adversely impact on the heritage significance of the SOH and would continue to comply with the relevant provisions of the SOH Management Plan, the CMP and the Utzon's Design Principles.</li> </ul>
Clause 6.21 Design Excellence	<ul style="list-style-type: none"> <li>Development consent must not be granted unless consent authority considers the development exhibits design excellence.</li> </ul>	<ul style="list-style-type: none"> <li>The Department is satisfied the proposed works would not significantly impact on the high standard of architectural and urban design of the site. The standard of design, materials and finishes of works proposed are considered to be of a high standard that have been approved by the SOH Eminent Architects Panel, Conservation council and Heritage Architect.</li> </ul>

Clause 7.11 Foreshore Access	<ul style="list-style-type: none"> <li>Consideration of what extent of development would encourage public access along the foreshore and links with existing and proposed open space.</li> </ul>	<ul style="list-style-type: none"> <li>Public access along the foreshore to the Royal Botanic Gardens would be retained.</li> </ul>
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### Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005 (DCP)

Consideration of the Sydney Harbour Foreshore Area DCP is provided in **Table 4** below.

**Table 4:** Summary of Compliance with the Sydney Harbour Foreshore and Waterways Area DCP

DCP	Key controls	Compliance
<b>Ecological assessment (Part 2)</b>	<ul style="list-style-type: none"> <li>Determination of conservation status, statement of intent and performance criteria.</li> </ul>	<ul style="list-style-type: none"> <li>The site contains no terrestrial or aquatic ecological communities as identified in the DCP.</li> </ul>
<b>Landscape assessment (Part 3)</b>	<ul style="list-style-type: none"> <li>Consideration of landscape character types and performance criteria.</li> </ul>	<ul style="list-style-type: none"> <li>The site is identified as a landmark on Map 8 of the Ecological Communities and Landscape Characters.</li> <li>The Map indicates that the SOH site adjoins landscape character area No. 9 which applies to the natural foreshores of Sydney Harbour. The proposal would be consistent with the performance criteria for this landscape character area predominantly because it would not impact on any: <ul style="list-style-type: none"> <li>natural feature of the foreshore including vegetation and rock outcrops</li> <li>major points or entrances to the harbour.</li> </ul> </li> </ul>
<b>Design Guidelines</b>	<ul style="list-style-type: none"> <li>Foreshore access</li> </ul>	<ul style="list-style-type: none"> <li>Public access along the foreshore would be maintained.</li> </ul>

## APPENDIX C GLOSSARY

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**Ecologically Sustainable Development** can be achieved through the implementation of:

- (a) *the precautionary principle - namely, that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. In the application of the precautionary principle, public and private decisions should be guided by:*
  - (i) *careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment, and*
  - (ii) *an assessment of the risk-weighted consequences of various options,*
- (b) *inter-generational equity—namely, that the present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations,*
- (c) *conservation of biological diversity and ecological integrity—namely, that conservation of biological diversity and ecological integrity should be a fundamental consideration,*
- (d) *improved valuation, pricing and incentive mechanisms—namely, that environmental factors should be included in the valuation of assets and services, such as:*
  - (i) *polluter pays—that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement,*
  - (ii) *the users of goods and services should pay prices based on the full life cycle of costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any waste,*
  - (iii) *environmental goals, having been established, should be pursued in the most cost effective way, by establishing incentive structures, including market mechanisms, that enable those best placed to maximise benefits or minimise costs to develop their own solutions and responses to environmental problems.(Cl.7(4) Schedule 2 of the Regulation)*

### **Objects of the Act**

- (a) *to encourage:*
  - (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
  - (ii) *the promotion and co-ordination of the orderly and economic use and development of land,*
  - (iii) *the protection, provision and co-ordination of communication and utility services,*
  - (iv) *the provision of land for public purposes,*
  - (v) *the provision and co-ordination of community services and facilities, and*
  - (vi) *the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and*
  - (vii) *ecologically sustainable development, and*
  - (viii) *the provision and maintenance of affordable housing, and*
- (b) *to promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and*
- (c) *to provide increased opportunity for public involvement and participation in environmental planning and assessment.*

### **Relevant Environmental Planning Instruments.**

These are EPIs that are required to be taken into consideration in the assessment of the project under s. 79C. A detailed evaluation of each is provided at **Appendix B**.

### **Section 79C Evaluation**

#### **(1) Matters for consideration—general**

*In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:*

- (a) the provisions of:
  - (i) any environmental planning instrument, and
  - (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and
  - (iii) any development control plan, and
  - (iiia) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and
  - (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and
  - (v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979), that apply to the land to which the development application relates,
- (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,
- (c) the suitability of the site for the development,
- (d) any submissions made in accordance with this Act or the regulations,
- (e) the public interest.

**Note.** See section 75P (2) (a) for circumstances in which determination of development application to be generally consistent with approved concept plan for a project under Part 3A.

**Note.** The consent authority is not required to take into consideration the likely impact of the development on biodiversity values if:

- (a) the development is to be carried out on biodiversity certified land (within the meaning of Part 7AA of the Threatened Species Conservation Act 1995), or
- (b) a biobanking statement has been issued in respect of the development under Part 7A of the Threatened Species Conservation Act 1995.



## APPENDIX D NOISE CALCULATIONS

In order to implement noise management levels in LAeq (5 minute) that do not exceed the prior noise criteria, the Applicant submitted an amended NIA that converted the prior LMax measurement criteria at Kirribilli to the equivalent L10 measurement using the following calculation:

- $L10 = (L_{\text{Max}} - 4 \text{ dB})$ .

The amended NIA also undertook calculations of distance attenuation to determine the equivalent prior noise criteria at Kirribilli, if measured at the northern boundary of the broad walk (see **Table 1**).

The L10 noise measurements were then converted to the equivalent LAeq (5 minute) measurement using the following calculation:

- $Leq(5 \text{ minute}) = (L10 - 5 \text{ dB})$ .

**Table 1.** Existing noise criteria at Kirribilli when measured at the SOH.

Time	Prior Noise Criteria at Kirribilli	Equivalent Noise Criteria when measured at SOH (L10)	Equivalent Noise Criteria when measured at SOH (dBLAeq)
Day (7 am to 6 pm)	Not to exceed background noise level		
Evening (6 pm to 10 pm )			
Night (12 midnight to 7 am)			
10 pm – 12 midnight  (External activities to cease at 12 midnight)	<ul style="list-style-type: none"> <li>• LMax 55 dB(A)</li> <li>• LCmax 70 dB(C)</li> </ul> <p>Equivalent noise criteria when converted from Lmax to L10:</p> <ul style="list-style-type: none"> <li>• L10 51 dB(A)</li> <li>• L10 66 dB(C)</li> </ul>	<p>Equivalent noise criteria when calculating distance attenuation from Kirribilli to SOH:</p> <ul style="list-style-type: none"> <li>• L10 67 dB(A)</li> <li>• L10 76 dB(C)</li> </ul>	<p>Equivalent noise criteria when measured in LAeq (5 minute):</p> <ul style="list-style-type: none"> <li>• 62 dBLAeq, 5min and</li> <li>• 77 dBLCeq, 5min</li> </ul>

## **APPENDIX E    RECOMMENDED DEVELOPMENT CONSENT**

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**APPENDIX F    COMMONWEALTH DEPARTMENT OF ENVIRONMENT  
AND ENERGY EPBC APPROVAL**

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## Approval

### Sydney Opera House Building Renewal Program - Safety, Accessibility and Venue Enhancements (EPBC 2016/7825)

This decision is made under sections 130(1) and 133 of the *Environment Protection and Biodiversity Conservation Act 1999*.

#### Proposed action

<b>person to whom the approval is granted</b>	Sydney Opera House
<b>proponent's ABN</b>	ABN: 69 712 101 035
<b>proposed action</b>	<p>To undertake part of the Sydney Opera House Building Renewal Program, Sydney, NSW. The package of works is for operational enhancements, accessibility upgrades and improved work, health and safety standards in the Joan Sutherland Theatre, Entry Foyer and Function Centre.</p> <p>[See EPBC Act referral 2016/7825, and request for variation received 3 March 2017 and accepted 14 March 2017].</p>

#### Approval decision

Controlling Provision	Decision
World Heritage properties (sections 12 & 15A)	Approve
National Heritage places (sections 15B & 15C)	Approve

#### conditions of approval

This approval is subject to the conditions specified below.

#### expiry date of approval

This approval has effect until 31 May 2027.

#### Decision-maker

<b>name and position</b>	Kim Farrant Assistant Secretary Assessments (NSW, ACT) and Fuel Branch
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signature



date of decision 20.6.17

#### Conditions attached to the approval

- 1) To minimise the impacts of the action on **protected matters**, the person taking the action must implement conditions A5, A6, A7, B3, B10, C6, C7, C8, C9, C10 and C18 of the approval granted for SSD16\_7665 under the *Environmental Planning & Assessment Act 1979* (NSW) as in force or existing from time to time, where those conditions relate to managing, mitigating, avoiding, recording or reporting on impacts to **protected matters**.
- 2) To minimise the impacts of the action on **protected matters**, the person taking the action must notify the **Department** in writing of any proposed change to the conditions of the State Government approval for which Condition 1 applies, if those changes relate to managing, mitigating, avoiding, recording or reporting on impacts to **protected matters**. This notification must be provided no later than 2 weeks after: formally proposing such a variation in writing; or becoming aware of the State Government proposing a change.
- 3) To minimise the impacts of the action on **protected matters**, the person taking the action must resolve the following:
  - i. Final expression of cuts through cranked beams and stairs for the new accessible passageway on Level 3 of the Joan Sutherland Theatre.
  - ii. Signage, LED screens, handrails and escalator finishes.
  - iii. Final design of lifts at each level of the building in relation to heritage fabric.
  - iv. Dimensions and finishes of the Function Centre internal wall openings.
  - v. Final designs of any other currently unresolved detailing.
  - vi. Advise how the design finishes are consistent with Utzon's colour palette and Peter Hall's original interior fitout.

Prior to **commencement of each element**, the person taking the action must notify the **Department** in writing of the final designs and that the design finishes have been supported in writing by: the **Eminent Architects Panel**, **Sydney Opera House Heritage Architect** and **Conservation Council**.

- 4) To minimise the impacts of the action on **protected matters**, the person taking the action must, within 6 months of **commencement** of the action, submit for the **Minister's** approval, a five (5) year Heritage Interpretation Strategy for the **interpretation** of the architectural history of the Sydney Opera House and its World and National Heritage values. The Heritage Interpretation Strategy must include:
  - i. A commitment to display information about the evolution of the design and fabric of the building, including through the building renewal program, in publicly accessible areas.





- ii. Information to be displayed, including photographs of the relevant elements of the action in their original context alongside the proposed modifications, in particular any works affecting the original Peter Hall fitout that will be removed. The photographic recording must be undertaken in accordance with the *Photographic Recording of Heritage Items Using Film or Digital Capture (2006)* guidelines issued by the New South Wales Heritage Office.
- iii. Presentation of biographical details of Jorn Utzon and Peter Hall and a description of their roles and vision for the design and construction of the Sydney Opera House.
- iv. Provision for permanent information accessible through the Sydney Opera House website as an online archival record of the building and the renewal program.
- v. A timeline for the implementation of the interpretation works.

The Heritage Interpretation Strategy must be implemented once it has been approved by the **Minister**. **Commencement** of the Function Centre cannot begin until the **Minister** has approved the Heritage Interpretation Strategy.

- 5) To minimise the impacts of the action on **protected matters**, the person taking the action must, prior to **commencement** of the action, and until completion of construction, publicly display content about the building renewal program on construction fencing / hoarding.
- 6) To minimise the impacts of the action on **protected matters**, the person taking the action must, during construction, publicly display photographic exhibitions of the building renewal program on at least two occasions on the Western Broadwalk. Details of the exhibitions must be included in the Heritage Interpretation Strategy.
- 7) Within 20 business days after the **commencement** of the action, the person taking the action must advise the **Department** in writing of the actual date of **commencement**.
- 8) The person taking the action must maintain accurate records substantiating all activities associated with or relevant to the conditions of approval, including measures taken to implement the Heritage Interpretation Strategy required by this approval, and make them available to the **Department** upon request. Such records may be subject to audit by the **Department** or an independent auditor in accordance with section 458 of the **EPBC Act**, or used to verify compliance with the conditions of approval. Summaries of audits will be posted on the **Department's** website. The results of audits may also be publicised through the general media.
- 9) Within three months of every 12 month anniversary of the **commencement** of the action, the person taking the action must publish a report on their website addressing compliance with each of the conditions of this approval, including implementation of any management plans as specified in the conditions. Documentary evidence providing proof of the date of publication and non-compliance with any of the conditions of this approval must be provided to the **Department** at the same time as the compliance report is published.
- 10) The person taking the action may choose to revise the Heritage Interpretation Strategy approved by the **Minister** under Condition 4 without submitting it for approval under section 143A of the **EPBC Act**, if the taking of the action in accordance with the revised Heritage Interpretation Strategy would not be likely to have a new or increased impact. If the person taking the action makes this choice they must:



- i. Notify the **Department** in writing that the approved Heritage Interpretation Strategy has been revised and provide the **Department** with an electronic copy of the revised Heritage Interpretation Strategy;
- ii. Implement the revised Heritage Interpretation Strategy from the date that the Heritage Interpretation Strategy is submitted to the **Department**; and
- iii. For the life of this approval, maintain a record of the reasons the approval holder considers that taking the action in accordance with the Heritage Interpretation Strategy would not be likely to have a new or increased impact.

10A) The person taking the action may revoke their choice under Condition 10 at any time by notice to the **Department**. If the person taking the action revokes the choice to implement the Heritage Interpretation Strategy, without approval under section 143A of the **EPBC Act**, the Heritage Interpretation Strategy approved by the **Minister** must be implemented.

10B) If the **Minister** gives a notice to the person taking the action that the **Minister** is satisfied that the taking of the action in accordance with the Heritage Interpretation Strategy would be likely to have a new or increased impact, then:

- i. Condition 10 does not apply, or ceases to apply, in relation to the revised Heritage Interpretation Strategy; and
- ii. The person taking the action must implement the Heritage Interpretation Strategy approved by the **Minister**.

To avoid any doubt, this condition does not affect any operation of Conditions 10 and 10A, in the period before the day the notice is given.

At the time of giving the notice the **Minister** may also notify that for a specified period of time that Condition 10 does not apply for the Heritage Interpretation Strategy required under the approval.

10C) Conditions 10, 10A and 10B are not intended to limit the operation of section 143A of the **EPBC Act**, which allows the person taking the action to submit a Heritage Interpretation Strategy to the **Minister** for approval.

11) If, at any time after 10 years from the date of this approval, the person taking the action has not substantially commenced the action, then the person taking the action must not substantially commence the action without the written agreement of the **Minister**.

12) Unless otherwise agreed to in writing by the **Minister**, the person taking the action must publish the Heritage Interpretation Strategy referred to in these conditions of approval on their website. The Heritage Interpretation Strategy must be published on the website within 1 month of being approved by the **Minister** or being submitted under Condition 10i.



### **Definitions:**

**Commencement:** the first instance of an activity. In relation to the action, it includes any demolition, construction or interior refurbishment associated with the action, excluding the erection of exterior hoardings, fences or signs and the conduct of heritage, environmental or other low impact surveys.

**Commencement of each element:** the elements of the action are defined as:

- Joan Sutherland Theatre projects, including the Follow Spot Room; safety curtain; accessibility projects (seating, Lift 31, Northern Foyer level 2 access, stage to auditorium access); dressing room upgrades; and sanitary facilities.
- Ballet Rehearsal Room
- Entry Foyer, including Lift 36
- Entry Foyer escalator
- Function Centre
- Joan Sutherland Theatre Northern Foyer level 3 access
- Eastern Accommodation

The **Department:** the Australian Government department responsible for administration of the **EPBC Act**.

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

The **Minister:** the Australian Government minister responsible for administering the **EPBC Act** or any nominated delegate.

**Interpretation:** means an action, activity, tool, technique or technology used to present and enhance understanding of an item or place's heritage and cultural significance. Interpretation may include, but is not limited to, a combination of the treatment and fabric of the item; the use of the item; and the use of interpretive media, such as events, activities, signs and publications.

**Protected Matter/s:** the World Heritage property and National Heritage place protected under the provisions of the EPBC Act for which this approval has effect.

The **Eminent Architects Panel; Sydney Opera House Heritage Architect;** and the **Conservation Council:** the advisory groups responsible for providing conservation and heritage advice to the person proposing to take the action.



