

Notice of decision

Section 2.22 and clause 20 of Schedule 1 of the *Environmental Planning and Assessment Act 1979*

Application type	State significant development
Application number and project name	SSD 8663 Sydney Opera House Concert Hall upgrade and new Creative Learning Centre
Applicant	Sydney Opera House Trust
Consent Authority	Minister for Planning and Public Spaces

Decision

The Minister for Planning and Public Spaces has, under section 4.38 of the *Environmental Planning and Assessment Act 1979* (**the Act**) granted consent to the development application subject to the recommended conditions and any additional conditions.

A copy of the Department of Planning, Industry and Environment's Assessment Report, development consent and conditions is available [here](#).

Date of decision

12 December 2019

Reasons for decision

The following matters were taken into consideration in making this decision:

- the relevant matters listed in section 4.15 of the Act and the additional matters listed in the statutory context section of the Department's Assessment Report;
- the prescribed matters under the *Environmental Planning and Assessment Regulation 2000*;
- the objects of the Act;
- the considerations under s 7.14(2) and 7.16(3) of the *Biodiversity Conservation Act 2016* (NSW);
- all information submitted to the Department during the assessment of the development application;
- the findings and recommendations in the Department's Assessment Report; and
- the views of the community about the project (see Attachment 1).

The findings and recommendations set out in the Department's Assessment Report were accepted and adopted as the reasons for making this decision.

The key reasons for granting consent to the development application are as follows:

- *Benefits* – the project would provide a range of benefits for the region and the State as a whole, including \$115,337,788 of total capital investment, 300 construction jobs and 250 – 270 operational jobs;
- *Consistent with NSW Government Policy* – the project is permissible with development consent, and is consistent with NSW Government policies including the Greater Sydney Region Plan, Eastern City District Plan and other relevant policies, as demonstrated in Appendix C of the Department's Assessment Report;
- *Impacts can be managed* - the impacts on the community and the environment, including heritage, can be appropriately minimised, managed or offset to an acceptable level, in accordance with applicable NSW Government policies and standards;
- *Community views considered* - the issues raised by the community during consultation and in submissions have been considered and adequately addressed through changes to the project and the recommended conditions of consent; and
- *Public interest* – weighing all relevant considerations, the project is in the public interest as it would facilitate the upgrading of a World Heritage listed building, providing cultural benefit and improving its acoustic, functional performance, and accessibility.

Attachment 1 – Consideration of Community Views

The Department exhibited the Environmental Impact Statement for the project from 1 November 2018 until 28 November 2019 (28 days) and received seven submissions (Council and government agency), all making comments on the project. No public submissions were received.

The Department also undertook the following consultation activities:

- one site visit.

The key issues raised by Council and considered in the Department's Assessment Report and by the decision maker include heritage and developer contributions. Other issues are addressed in detail in the Department's Assessment Report.

<i>Issue</i>	<i>Consideration</i>
<p><i>Heritage (Council issue)</i></p> <ul style="list-style-type: none"> • the works, on balance, have an acceptable heritage impact and will not have a net adverse impact on local, State or World Heritage values. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • The would facilitate the upgrading of a World Heritage listed building, providing cultural benefit and improving its acoustic, functional performance, and accessibility. • The proposed works are consistent with the SOH Management Plan through their consistency with the CMP and Utzon Design Principles, and would have an acceptable level of impact on Matters of National Environmental Significance. • The Department concludes the impacts of the development are acceptable and can be appropriately mitigated through the implementation of the recommended conditions of consent. • The Department notes 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 and the Commonwealth under the EPBC Act. <p><i>Recommended Conditions/Response</i></p> <p>Conditions include:</p> <ul style="list-style-type: none"> • Requirements for archival photographic recording, use of skilled trades people and commissioning of a heritage consultant to monitor works. • Updating the CMP to reflect the changes proposed and preparing a Heritage Interpretation Strategy. • Requirement for further refinement of design elements through the application under Section 60 of the <i>Heritage Act 1977</i>
<p><i>Development Contributions</i></p> <ul style="list-style-type: none"> • summarise views raised in relation to this issue 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • The Central Sydney Development Contributions Plan 2013 (Contributions Plan) applies to the development and requires a contribution of 1% of the CIV, amounting to \$1.15 million. • The Applicant has sought an exemption from contributions on the basis it is a not-for-profit entity, the works will fund a public facility and include adaptive re-use of a heritage item, the works will not increase demand for Council facilities, and can be considered as works-in-kind due to their material public benefit. • Council does not support the Applicant's waiver request because it does not consider it a type of not-for-profit organisation listed in Council's guideline for applying the Contributions Plan. • The Department has reviewed and considered the Applicant's justification and Council's views and considers an exemption from payment of development contributions is reasonable and acceptable as: <ul style="list-style-type: none"> ○ the SOH is run by the SOH Trust, a not-for-profit organisation, and is a significantly important cultural institution and public asset ○ the refurbishment of the Concert Hall and new CLC would provide significant economic benefits to Sydney's local economy ○ the works would enable the SOH to maintain its status as an important cultural institution and provide a permanent home for its CLC program, providing a clear community/public benefit ○ it is in the public interest. <p><i>Recommended Conditions/Response</i></p> <ul style="list-style-type: none"> • No conditions recommended.