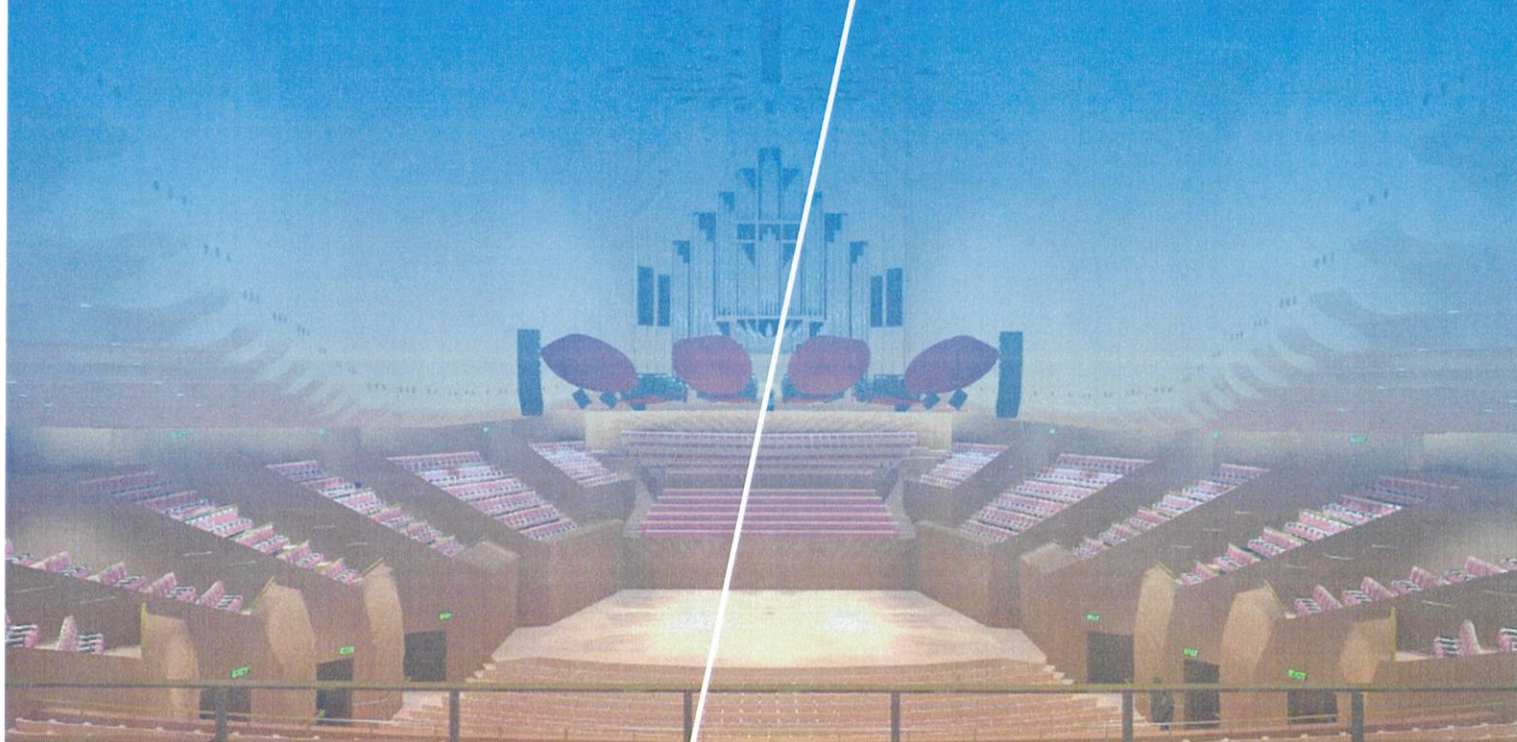




# **Sydney Opera House Concert Hall upgrade and new Creative Learning Centre**

State Significant  
Development Assessment  
(SSD 8663)





December 2019

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#### Cover photo

Visualisation of proposed Concert Hall development (Source: Applicant's Revised Response to Submissions)

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# Glossary

Abbreviation	Definition
Applicant	Sydney Opera House Trust
Application	SSD 8663
BCA	Building Code of Australia
CIV	Capital Investment Value
Consent	Development Consent
Contributions Plan	Central Sydney Development Contributions Plan 2013
Council	City of Sydney Council
Department	Department of Planning, Industry and Environment
EESG	Environment, Energy and Science Group of the Department of Planning, Industry and Environment (former NSW Office of Environment and Heritage)
EIS	Environmental Impact Statement
EPA	Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
Guideline	Administrative Guideline for Exemptions in the Central Sydney Development Contributions Plan 2013
Heritage Division	Heritage Division of the Department of Premier and Cabinet (former Heritage Division of the Office of Environment and Heritage)
LEP	Local Environmental Plan
Minister	Minister for Planning and Public Spaces
MNES	Matters of National Environmental Significance
RtS	Response to Submissions
SEARs	Secretary's Environmental Assessment Requirements
Secretary	Secretary of the Department of Planning, Industry and Environment
SEPP	State Environmental Planning Policy
SRD SEPP	State Environmental Planning Policy (State and Regional Development) 2011
SSD	State Significant Development
TfNSW	Transport for New South Wales
TfNSW (RMS)	Transport for New South Wales (RMS)



# Executive Summary

This report provides an assessment of a State significant development application (SSD 8663) for the upgrade of the Sydney Opera House (SOH) Concert Hall and repurposing of existing office space to provide a new Creative Learning Centre. The Applicant is the Sydney Opera House Trust and the site is located at 2 Circular Quay East, Bennelong Point, within the Sydney local government area.

The proposed upgrade of the Concert Hall aims to improve its acoustic performance and upgrade its accessibility to meet modern accessibility and WHS requirements. The new Creative Learning Centre would provide a dedicated space for the Children, Families and Creative Learning Programs.

The majority of the proposed upgrade works are internal, within the Concert Hall and existing office space in the north-western corner of the building. External works are limited to the glazing associated with the northern foyer lift and would not be readily visible from outside the building. The works form part of the SOH Building Renewal Program developed to guide its transformation over the decade up to the 50<sup>th</sup> anniversary of the building's opening in 2023.

The project is a "controlled action" under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) due to the SOH's National and World Heritage values, and it has been assessed in accordance with the Bilateral Agreement between the NSW Government and the Commonwealth, made under the EPBC Act.

## Engagement

The application was publicly exhibited between 1 November 2018 and Wednesday 28 November 2018. The Department received a total of six submissions, comprising a submission from the City of Sydney Council (Council) and five submissions from government agencies. No public submissions were received.

Council advised that on balance the works would have an acceptable heritage impact and would not have a net adverse impact on the heritage significance of the SOH, at local, State or World Heritage level. However, Council stated it did not support the Applicant's request for an exemption from development contributions as the Sydney Opera House Trust is not a type of not-for-profit organisation listed in Council's exemption guidelines.

The Heritage Division noted the works would result in physical and visual heritage impacts, however it did not object to the proposal, acknowledging the works would address disability needs, and improve the acoustic performance of the building. The Heritage Division also advised that the revisions to the project and proposed mitigation measures would reduce heritage impacts.

## Assessment

The Department has carefully considered the proposal and the issues raised in submissions and is satisfied the proposal is acceptable for the following reasons:

- the proposed upgrade works to the Concert Hall would improve accessibility to the building through the provision of additional wheelchair seating, a new accessible passageway through the eastern foyer and a new lift in the northern foyer. This would deliver on part of the SOH Building Renewal Program by improving the operational efficiency of the building and compliance with modern building, accessibility and WHS requirements



- the proposal would improve the acoustic performance of the Concert Hall through the use of new acoustic reflectors, acoustic drapes, lighting and speakers. This would ensure the SOH retains its status as a world-class performance venue
- the proposed accessibility, acoustic and functional upgrades and the proposed Creative Learning Centre are consistent with the SOH Management Plan, CMP and Utzon Design Principles
- the heritage impacts associated with the proposal, including impacts on Matters of National Environmental Significance (National and World Heritage values) are acceptable as they would retain the SOH's use and function, strengthen other heritage values, and improve the use of the SOH as a premier performance venue. The Department also notes the proposed external works are limited to minor alterations to existing glazing associated with the northern foyer lift, and these works would not impact upon the external appearance of the SOH as they are sympathetic to the existing design and materials and would not be readily visible from outside the building. Further, the Department has recommended a suite of conditions to appropriately mitigate and manage the potential heritage impacts associated with the proposal, including a requirement for the CMP to be updated to reflect the changes proposed and a Heritage Interpretation Strategy to be prepared
- the Department referred the draft report and conditions to the Commonwealth, who advised it is satisfied the documents will provide its Minister with sufficient information to make an informed decision on the project under the EPBC Act
- the Applicant's request for exemption from payment of development contributions is acceptable as it is a not-for-profit organisation, the works would not increase demand for Council's facilities, and the proposal would improve accessibility to the building and revitalise an important cultural institution and public asset which provides significant economic benefits to Sydney's economy
- the proposed Creative Learning Centre, would provide additional public and community benefits through its use as a dedicated space for the SOH's cultural and education programs, enhancing the ability of the SOH to engage with and promote the performing arts to younger generations
- all other issues associated with the proposal have been assessed, and appropriate conditions recommended, where necessary, to ensure the impacts of the development are appropriately mitigated and/or managed.

## Conclusion

The Department acknowledges the proposal would result in some heritage impacts, however concludes these are acceptable as the proposal would deliver on part of the SOH Building Renewal Program by improving the acoustic performance of the building and compliance with modern building, accessibility and WHS requirements.

The Department considers heritage impacts can be appropriately mitigated through the implementation of the recommended conditions of consent, including lodgement of a Section 60 application under *the Heritage Act 1977* and that the CMP be updated to reflect the changes proposed and a Heritage Interpretation Strategy be prepared.

The Department's assessment therefore concludes the proposal is in the public interest and recommends the application be approved, subject to the recommended conditions.



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# 1. Introduction

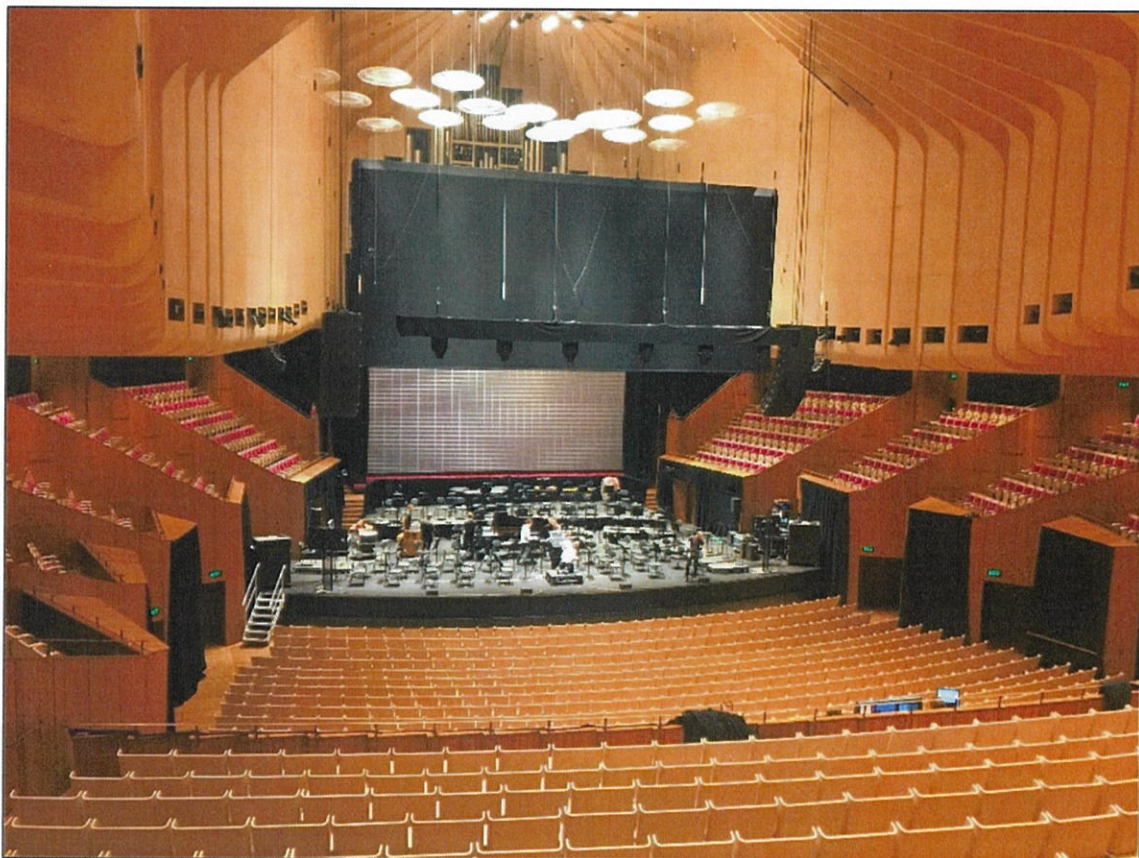
The Sydney Opera House Trust (the Applicant) seeks approval to upgrade the Sydney Opera House (SOH) Concert Hall by improving the acoustic performance of the building, upgrading access and converting existing office space for a new Creative Learning Centre (the project).

The proposal is being assessed under the Bilateral Agreement between the NSW Government and the Commonwealth, made under the EPBC Act.

## 1.1 The site

The SOH is located at 2 Circular Quay East, Bennelong Point and is legally described as Lot 5 in DP 775888 and Lot 4 in DP 787933. The SOH is one of the world's most distinctive and renowned buildings, and is internationally recognised as a symbol of Sydney and Australia. The SOH building is also of State, National and World Heritage significance as a 20<sup>th</sup> century architectural masterpiece. It is one of Sydney's premier entertainment and tourist destinations, attracting approximately 8.2 million visitors per year.

The two main performance spaces located within the SOH building are the Concert Hall on the western side of Bennelong Point (**Figure 1**) and the Joan Sutherland Theatre (JST) on the eastern side (**Figure 5**). Both performance spaces are surrounded by large foyers to the north (**Figure 2**) and south. The existing office space proposed to be re-purposed for the Creative Learning Centre is located in the north-western corner of the building (**Figure 3**).



**Figure 1** | Concert Hall (Source: Department photograph)





**Figure 2** | Northern foyer (Source: Department photograph)



**Figure 3** | Existing area proposed for a new Creative Learning Centre (Source: Department photograph)

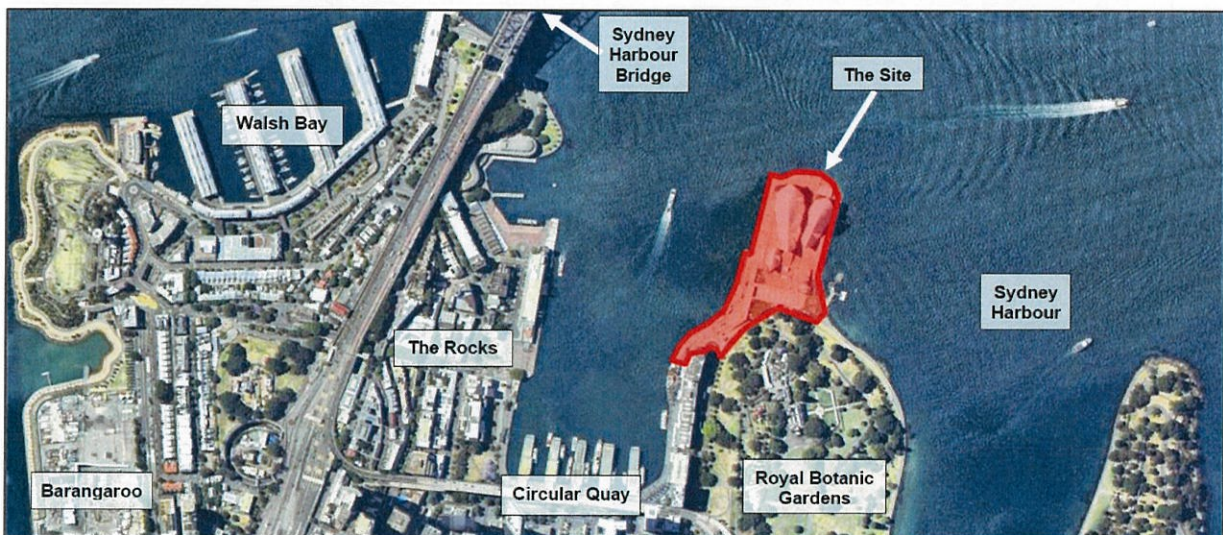


The SOH building sits above a large forecourt area paved with cobblestone and reconstituted granite and is serviced by an underground loading dock below the forecourt which is accessed via Macquarie Street. Access from the forecourt to the south of the main building is provided via the main podium steps (the monumental steps) and the southern forecourt.

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 of the site.

## 1.2 Site Context

The site is situated at the north-eastern edge of the Sydney CBD and is in the Sydney local government area. The site is bounded by Sydney Harbour to the north, east and west, Circular Quay to the south-west, and the Royal Botanic Gardens and Government House to the south and south-east. A mixed-use residential apartment building (Bennelong Apartments) is located south-west of the site at 1 Macquarie Street. The site and its surroundings are shown at **Figure 4**.



**Figure 4** | Site Location (Base source: Nearmap)

## 1.3 Sydney Opera House Building Renewal Program

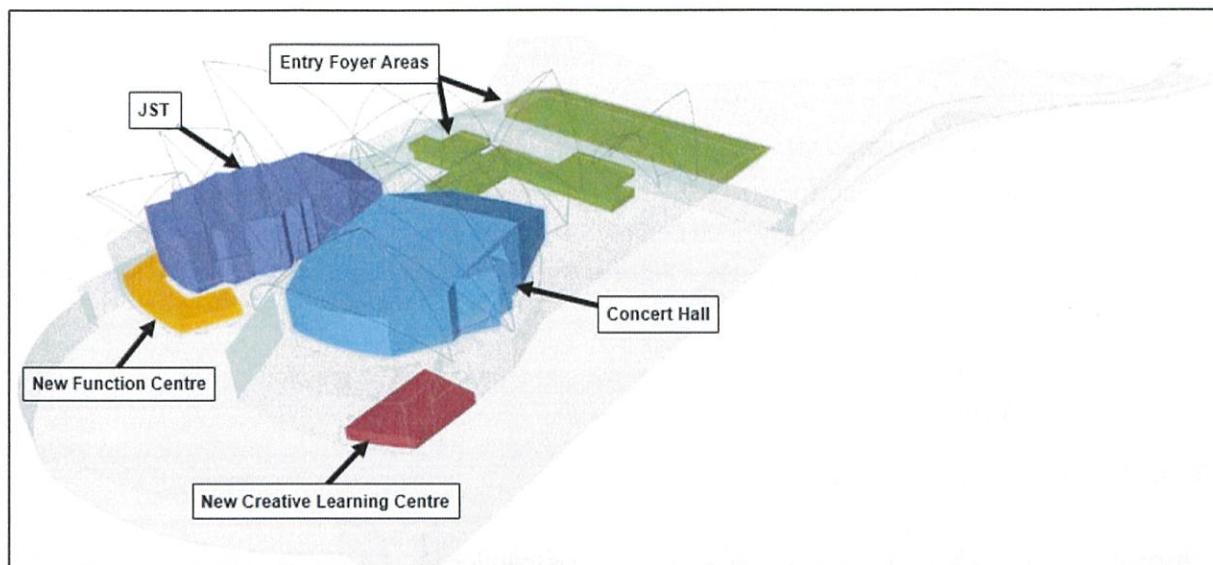
The Sydney Opera House Trust has developed a Building Renewal Program (BRP) (see **Figure 5**) to guide the transformation of the SOH building over the decade up to the 50<sup>th</sup> anniversary of the building's opening in 2023. The BRP is valued at \$277 million and represents the largest program 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 compliance with modern building, accessibility and Work Health and Safety requirements.

The development of the BRP has been informed by input from the Design Advisory Panel (formerly known as 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 the Environment and Energy, Heritage Council of NSW (Heritage Council), City of Sydney Council (Council), The National Trust, the



Metropolitan Local Aboriginal Land Council, the community of people with disabilities and surrounding landowners.



**Figure 5** | Sydney Opera House Building Renewal Program (Base source: SSD 7881 EIS)

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. Development consent has been granted for the function centre (7881), works to the JST to replace theatre equipment (SSD 7639), and accessibility upgrades (SSD 7665). All works to the JST, function centre and accessibility upgrades are now complete.

To facilitate the BRP, the current application seeks consent for the upgrade of the Concert Hall and provision of a new Creative Learning Centre as a dedicated space for the Children, Families and Creative Learning Program.

## 1.4 Related Applications

This project also includes components of two previously withdrawn applications:

- works to the Creative Learning Centre, under the Monumental Steps area and Southern Foyers (SSD 7945) withdrawn in February 2017, following public exhibition
- works to the Concert Hall, including rehearsal rooms 1 and 2 (SSD 8101) withdrawn in August 2017, following the issue of SEARs.

The Applicant has also lodged an application seeking approval for shade covers, minor works and consolidation of existing uses on the lower concourse in November 2019 (SSD 9794).

The Department is currently assessing a modification application (DA 43-2-2004 MOD 5) for the re-purposing an existing back-of-house space to provide virtual tours of the Concert Hall and other ancillary uses whilst it is closed for refurbishment and beyond.



## 2. Project

### 2.1 Description of proposal

The Applicant seeks approval to upgrade the SOH Concert Hall and provide a new Creative Learning Centre. The key components of the application (as amended by the RtS and RRtS) are outlined in **Table 1**. The proposed layout of the key components of the works are shown at **Figures 6** and **7**, and the proposed Creative Learning Centre is shown at **Figure 8**.

The Applicant also seeks exemption from paying development contributions for the project, which would amount to approximately \$1.15 million.

**Table 1** | Main Components of the Project

Aspect	Description
General accessibility upgrades	<ul style="list-style-type: none"><li>On-grade access from the southern foyer at Level 2 to the corresponding level in the northern foyer via a new passageway within the eastern foyer stairs</li><li>New lift on the eastern side of the northern foyer</li><li>New handrails in the centre of the eastern and western foyer stairs</li><li>Replacement of non-compliant handrails throughout the Concert Hall</li><li>Accessibility upgrades to the Concert Hall seating (up to 26 wheelchair positions)</li><li>Upgrades to dressing rooms, including improved mobility access and wet area facilities to performers' dressing rooms on Level 1.</li></ul>
Concert Hall acoustic upgrades	<p>Acoustic Music:</p> <ul style="list-style-type: none"><li>Replacement of the existing acrylic over-stage reflectors with new adjustable reflectors</li><li>New operable side wall reflectors</li><li>New acoustically diffusive timber panelling to box fronts, stage surround, rear of side boxes, rear wall of the circle, choir and rear wall of stalls</li><li>Adjustment of box fronts and stage surround geometry.</li></ul> <p>Amplified Music:</p> <ul style="list-style-type: none"><li>New acoustic drapes, in the form of acoustically absorbent fabric on mechanically deployed banners above stage and on stage-surround walls, box fronts and rear walls</li><li>New speaker amplification system.</li></ul>
Concert Hall functional upgrades	<p>Stage works:</p> <ul style="list-style-type: none"><li>Redesign and reconstruction of the stage floor, including increasing the depth of the stage and lowering of the stage level</li><li>New automated and adjustable stage risers</li><li>Under stage storage, including automated storage of seating rows A and B when stage extension is implemented.</li></ul> <p>Backstage works:</p> <ul style="list-style-type: none"><li>Adjustment to floor level to meet stage level</li><li>Increased stage wings</li></ul>



- New downstage entry doors.

Technical Zone works:

- New penetrations in the existing ceiling
- New technical equipment zone in the ceiling, including lighting
- New winch room
- Relocation and replacement of plant room mechanical equipment.

Seating:

- Refurbishment to comply with requirements for fire engineering, wheelchair use, different patron seating configurations and technical operations.

Air-conditioning upgrades:

- Closure of existing cannon port openings and installation of new air conditioning diffuser outlets
- Increased number of ceiling diffusers in lower sections of the ceiling over boxes
- New secondary air ductwork behind the side walls
- Upgrade of smoke exhaust capacity.

#### New Creative Learning Centre

- Alterations to, and re-purposing of 292 m<sup>2</sup> of office space in the north-western corner of the building for a Creative Learning Centre, to be used as a dedicated space for the Children, Families and Creative Learning Program. This would include provision of a flexible space for hosting workshops, creative-play activities, talks and performances and a permanent digital classroom
- Hosting of occasional small-scale events and functions
- Associated works, including connection from the northern end of the western foyer, and relocation of double doors on western façade and new access ramp.

#### Construction

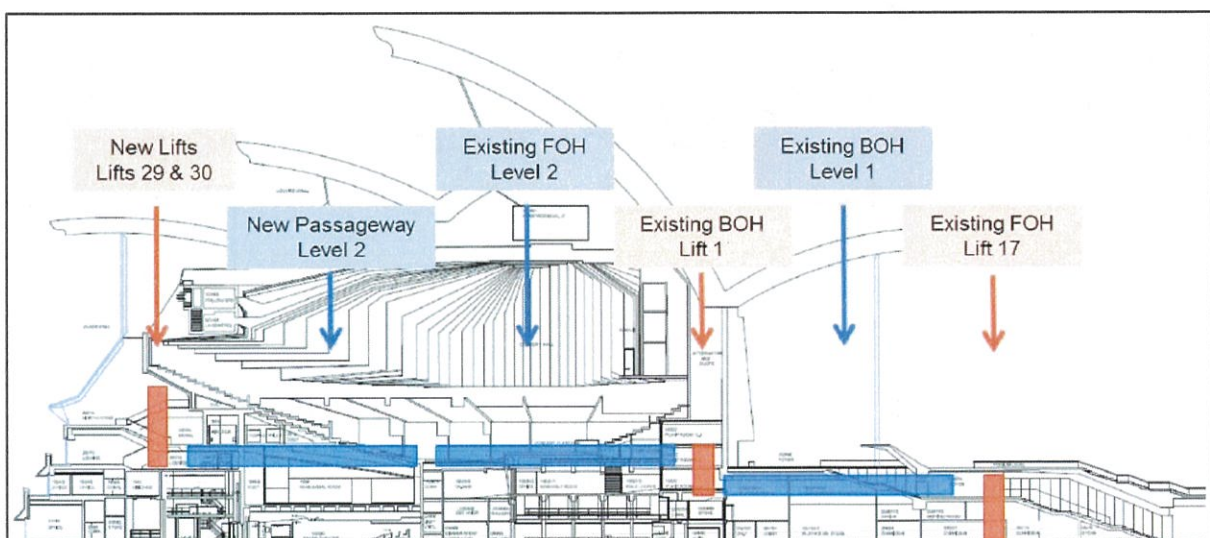
- Internal works would be undertaken on a 24-hours-a-day, seven-days-per-week basis and would require the Concert Hall to be closed for 18 – 24 months.
- The remainder of works would be carried out in accordance with standard construction hours.

#### Employment

- 300 construction jobs and 250 – 270 operational jobs.

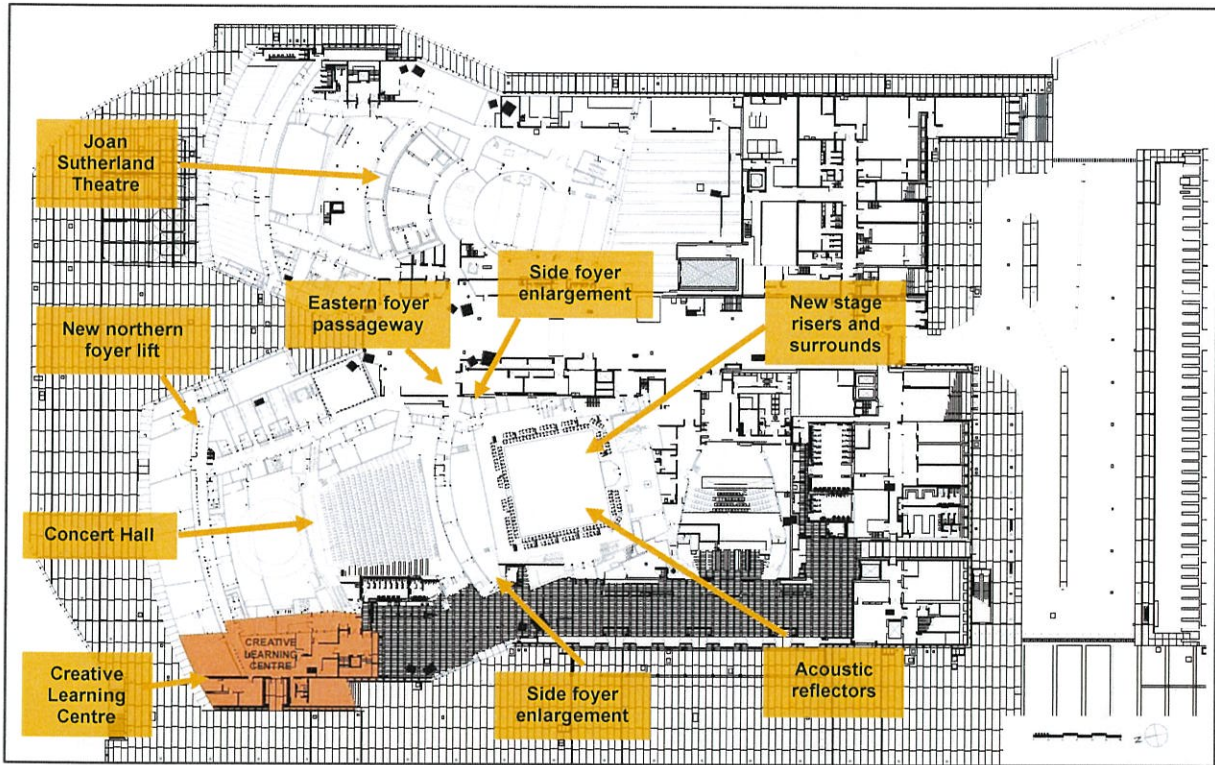
#### CIV

- \$115,337,788.00.



**Figure 6** | Concert Hall proposed accessibility works (Source: EIS). Note: Lift 29 (western foyer) has been removed from the scope of works





**Figure 7** | General layout plan of key works components (Source: Applicant's Architectural Drawings)



**Figure 8** | Proposed Creative Learning Centre (Source: Applicant's EIS)





## 3. Strategic Context

### 3.1 Greater Sydney Region Plan and Eastern City District Plan

The Greater Sydney Region Plan (GSRP) supports a 40-year vision for a metropolis of three cities that will rebalance growth and deliver its benefits more equally and equitably to residents across Greater Sydney. The site is located within the Harbour CBD.

The proposal is consistent with the GSRP and Eastern City District Plan as it would preserve a tourism and cultural asset by revitalising an iconic Sydney building. This would be facilitated through upgrades to the existing facilities and the improvement of accessibility, and would support the diversity of activities in Greater Sydney's visitor economy whilst promoting its heritage. The proposal would not have an adverse impact on the scenic landscape of the Opera House.



## 4. Statutory Context

### 4.1 State Significant Development

The project is classified as State significant development (SSD) under section 4.36 of the *Environmental Planning and Assessment Act 1979* (EP&A Act), as it comprises development on land identified as being within the SOH site under clause 1 of Schedule 2 of State Environmental Planning Policy (State and Regional Development) 2011.

The Minister for Planning and Public Spaces is the consent authority for the project as it has been lodged by a public authority.

As the application has been lodged by a public authority and Council do not support the Applicant's request for an exemption from paying development contributions, only the Minister can determine the application.

### 4.2 Permissibility

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

### 4.3 Secretary's Environmental Assessment Requirements

On 28 August 2017, the Department notified the Applicant of the Secretary's Environmental Assessment Requirements (SEARs) for SSD 8663. These were updated on 24 August 2018.

The Department is satisfied the EIS had adequately addressed compliance with the SEARs to enable the assessment and determination of the application.

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

The SOH site is declared a World Heritage property and a National Heritage place under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

On 17 July 2017, the Commonwealth Department of the Environment and Energy (DoEE) determined the proposal to be a 'controlled action' (EPBC 2017/7955) under the EPBC Act, as it was considered likely that the proposal could have a significant impact on a World Heritage property (sections 12 and 15A of the EPBC Act) and a National Heritage place (sections 15B and 15C of the EPBC Act).

The original decision included the following works components: Concert Hall (including Concert Hall rehearsal rooms 1 and 2), Creative Learning Centre, southern foyers and the under the Monumental Steps area.

This decision was varied on 24 August 2017 to remove works relating to the southern foyers and Concert Hall rehearsal rooms 1 and 2. The decision was again varied on 13 June 2018 to remove works relating to the under the Monumental Steps area, leaving the Concert Hall and Creative Learning Centre as the remaining works.

Following notification from the Commonwealth of the decision that the proposal was a controlled action, the Department confirmed the proposal would be assessed in the manner specified in Schedule 1 to the NSW Assessment Bilateral Agreement (February 2015). Under this agreement, the Commonwealth has accredited the assessment process under the EP&A Act for the purposes of the EPBC Act, enabling a single assessment of the proposal. However, an approval decision under the EPBC Act is still required by the Commonwealth decision-maker. Accordingly, the Department has conducted an assessment of the potential impacts on the relevant Matters of National Environmental Significance (MNES) in accordance with the requirements of the bilateral agreement.



The relevant controlling provision of the EPBC Act is World Heritage properties and National Heritage places. The assessment of MNES is provided in **Section 6.2** of this report and includes sufficient detail such that the Commonwealth decision-maker may consider those impacts when determining whether to approve the proposal. Additionally, this assessment report makes a recommendation and proposes conditions to the Commonwealth Minister for the Environment in relation to an approval decision.

#### 4.5 The Heritage Act 1977

Section 4.41 of the EP&A Act states that approval under Part 4 of the *Heritage Act 1977* (Heritage Act) 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.

Schedules 1 and 2 of the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017*, require the Applicant to seek separate approval from the Heritage Council under Part 4 of *Heritage Act 1977*, following the granting of any consent by the Minister.

The Department has considered heritage issues in its assessment of the proposal in **Section 6.2** 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.

#### 4.6 Sydney Opera House Management Plan 2005

Clause 288 of the EP&A Regulation requires consent authorities to consider the 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 and the Sydney Opera House Utzon Design Principles 2002 (Utzon Design Principles) should be relied upon to determine the impact of a project on the heritage values of the SOH. The CMP has now been superseded by *Respecting the Vision: Sydney Opera House – A Conservation Management Plan* (4th Edition) 2017 (the CMP), endorsed by the Heritage Council in August 2017. The CMP and Utzon 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 6.2** of this report. The Department's assessment concludes the proposal would comply with the relevant provisions of the SOH Management Plan, the CMP and the Utzon Design Principles.

#### 4.7 Mandatory Matters for Consideration

Section 4.15 of the EP&A Act outlines the matters that a consent authority must take into consideration when determining development applications. These matters could be summarised as:

- the provisions of environmental planning instruments (including draft instruments), development controls plans, planning agreements, and the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation)
- the environmental, social and economic impacts of the development
- the suitability of the site
- any submissions, and
- the public interest, including the objects in the EP&A Act and the encouragement of ecologically sustainable development (ESD).

The Department has considered all of these matters in its assessment of the project, as well as the Applicant's consideration of environmental planning instruments in its EIS, as summarised in **Section 6** of this report. The Department has also given consideration to the relevant provisions of the EP&A Act, including environmental planning instruments in **Appendix C**. The Department has given further consideration to matters relating to development contributions below.

#### Central Sydney Development Contributions Plan 2013

The Central Sydney Development Contributions Plan 2013 (Contributions Plan) was prepared in accordance with Section 61 of the *City of Sydney Act 1988*.

The Contributions Plan enables the Council to seek contributions (1% of the development cost) from development to the cost of new or existing public facilities, amenities and services in Central Sydney.

The Contributions Plan enables Applicants to offer works-in-kind, dedication of land and/or material public benefit as an alternative to a monetary payment. The Contributions Plan also provides for works that may be exempted from contributions. Relevant to this application are works that may be exempted for heritage and not-for-profit development.

The Contributions Plan defines heritage works as "development for the sole purpose of the adaptive reuse of an item of environmental heritage". The Plan defines not-for-profit development as "development undertaken on a cooperative or not-for-profit basis that provides a distinct community benefit, including but not limited to, childcare services and emergency services such as fire stations, police stations and ambulance stations".

The Applicant states the SOH is a not-for-profit institution which relies on government grants, donations, corporate sponsorship and self-generated revenue to maintain the precinct and provide cultural experiences, performances and events for the local and international community.

Council's view is that the SOH is not a type of not-for-profit organisation under the Contributions Plan. This is considered further in **Section 6**.

The Department notes that the Minister is not bound under section 7.13 of the EP&A Act to impose a condition requiring a development contribution under the Contributions Plan.

#### Administrative Guideline for Exemptions in the Central Sydney Contributions Plan 2013

In November 2018, the CEO of the City of Sydney Council approved the Administrative Guideline for Exemptions in the Central Sydney Contributions Plan 2013 (Guideline).

The Guideline outlines that for State significant development applications, the Department is responsible for determining the contribution to be paid and considering any request for an exemption. The Guideline further states that the Department may seek advice from Council in relation to a request for an exemption, and the Department will determine whether to grant an exemption.

The Guideline outlines that an exemption can be granted for the following types of not-for-profit organisations:

- health services facility
- places of public worship
- a school that is a Government School established under the *Education Act 1990* by the Minister for Education
- community facilities
- emergency services facilities



- centre-based childcare facilities and school-based childcare.

Council advise the SOH is not a type of not-for-profit organisation listed in the Guideline. The Department notes the Guideline aims to provide guidance to Council officers only and not the Department.

## 5. Engagement

### 5.1 Department's Engagement

In accordance with Schedule 1 of the EP&A Act, the Department publicly exhibited the application from Thursday 1 November 2018 until Wednesday 28 November 2018 (28 days). The application was made publicly available on the Department's website and at NSW Service Centres, and exhibited at Council.

The Department placed a public exhibition notice in the Sydney Central Courier, Daily Telegraph, Sydney Morning Herald and The Australian on Wednesday 31 October 2018, and notified adjoining landholders, Council and relevant government agencies in writing.

All notification and public participation statutory obligations have been satisfied, including the EPBC Act requirements for the advertisement to be placed in a state and nationally circulating newspaper for a minimum of 28 days, with details of the controlled action provisions and a link to the proposal on the Commonwealth's website.

The Department has considered the comments raised in Council and government agency submissions during the assessment of the application (**Section 6** and **Appendix B**) and by recommended conditions in the consent at **Appendix D**.

### 5.2 Summary of Submissions

The Department received six submissions on the proposal, comprising a submission making comments from Council and five submissions making comments from government agencies. No public submissions were received.

A link to all submissions is provided in **Appendix A**.

### 5.3 Key Issues – Government Agencies

The Department received five submissions from government agencies, all of which provided comments. The key issues raised are summarised in **Table 2**.

**Table 2** | Government agency submissions

#### Heritage Division of the Department of Premier and Cabinet (former Heritage Division of the Office of Environment and Heritage) (Heritage Division)

**Heritage Division** acknowledged the proposed works are principally essential interventions to address disability needs, acoustic performance and community facilities. However, Heritage Division noted the works would have significant physical and visual impacts, and made the following key comments:

- the quality of finishes for the lifts and Concert Hall works will be critical
- cutting into the stairs is a major physical intervention, however it is acknowledged the original Utzon design had a tunnel near this location
- documentation should show the various operational modes of the Concert Hall to indicate the visual impact of each mode to ensure there is direct vision of the organ and pipes ensemble, the folded and domed ceiling forms and the timber finishes
- a photographic record should be provided of the before and after for the Creative Learning Centre
- archaeological impacts relating to lift base installations should identify the methodology for excavation, including monitoring and recording of any findings and retention of as much fabric as possible in-situ
- the extent of minimum demolition required should be clarified, and reversibility and reinstatement should be integrated where possible rather than total replacement



- a summary should be provided of why the changes are happening and the degree of intervention to the items being disturbed.

#### Transport for NSW (TfNSW)

**TfNSW** requested a condition of consent be imposed to require the Construction Pedestrian and Traffic Management Plan (CPTMP) to be updated to include consideration of the cumulative transport impacts of all activities in the surrounding area, in consultation with TfNSW.

#### Transport for NSW (Roads and Maritime Services) (Transport for NSW (RMS))

**Transport for NSW (RMS)** stated it had no comments in relation to the development.

#### Environment, Energy and Science Group of the Department of Planning, Industry and Environment (former NSW Office of Environment and Heritage) (EESG)

**EESG** supported the sustainable design report and requested a condition requiring a Construction Environmental Management Plan that addresses the avoidance of impacts on the water quality of the harbour and includes mitigation measures such as sediment controls, 'wet-vacuuming' or off-site removal of contaminated materials during construction.

#### Environment Protection Authority (EPA)

**EPA** raised the following concerns and recommended a number of conditions to address these:

- the need for a detailed assessment of potential site contamination, including information about groundwater and a detailed assessment of the footprint and surroundings of existing buildings following their demolition
- construction phase dust control and management, erosion and sediment control and management, and noise impacts on sensitive receivers such as surrounding residences
- operational noise impacts on sensitive receivers, particularly on surrounding residences, arising from new mechanical services such as air conditioning plant.

## 5.4 Key Issues – Council

Council did not object to the proposed works and stated the following:

- the works include substantial and permanent impacts to original fabric, particularly resulting from the access upgrade
- the performance and acoustic interventions will be clearly visible within the Concert Hall but will read as a new layer of intervention which complements the form of materiality of the original interior
- the works, on balance, have an acceptable heritage impact and will not have a net adverse impact on the heritage significance of the place, at local, State or World Heritage level
- the works comply with the Utzon Design Principles and the policies and guidelines of the current Conservation Management Plan.

## 5.5 Response to Submissions

Following exhibition of the application, the Department placed copies of all submissions received on its website and requested the Applicant provide a response to the issues raised in the submissions.

On 22 January 2019, the Applicant provided a Response to Submissions (RtS) on the comments raised during the exhibition of the proposal. In conjunction with the RtS report, the Applicant also provided additional details regarding heritage and noise impacts.

The RtS was made publicly available on the Department's website and no public submissions were received. The Department forwarded the RtS to the Heritage Division, who stated the proposed works are considered to have

an acceptable level of material effect on the heritage significance of the SOH, and made the following key comments:

- several components of the proposed works will have an adverse impact on the SOH, particularly the passageway cut through the stairs on the eastern side foyer, the two northern foyer lifts and new acoustic treatments within the Concert Hall. However, the Heritage Division acknowledges the need for equitable access within the building and that the works will improve the SOH as a premier performance arts venue
- to ensure the proposed works do not have an unacceptable impact on the significant heritage values of the SOH, any component of the new works should be flexible, reversible and able to respond to new technologies as they emerge
- the Conservation Management Plan must be updated to reflect the significant changes proposed and submitted to the satisfaction of the Heritage Council
- the assessment should be revised to better reflect the cumulative impacts of the works
- the proposed bronze panelling on one wall of the new passageway and the southern wall in the 'Caves' area introduces a new design aesthetic which will detract from existing aesthetics. A panelling treatment consistent with the existing used within the SOH is required to ensure the existing 'natural' visually recessive palette of materials and colours is retained and respected
- there are a number of components that require further review as there is potential for change to reduce negative impacts, including the lifts, air exhaust hood on Level 2 of the western podium façade, the relocation of the western entry doors, reconfiguring of side foyers, new acoustic and amplified music equipment, reflectors, box fronts, and handrails
- there are a number of components that require further research to assess their significance, in order to inform decisions about actions that may impact on them. These include mechanical and acoustic-related equipment and machinery while it is in-situ, and the number of Peter Hall public toilet facilities.

## 5.6 Applicant's Revised Response to Submissions

The Department placed a copy of the Heritage Division's submission on the RtS on its website and requested the Applicant provide a response to the issues raised in the submission.

On 4 July 2019, the Applicant provided a Revised Response to Submissions (RRtS) (**Appendix A**) in response to the issues raised during the exhibition of the RtS, including in relation to:

- the Concert Hall 'at rest' mode
- matching new concrete finishes to the existing
- approval of finishes to the satisfaction of the Heritage Council delegate.

The Applicant also made changes to the proposal, including:

- removing the second lift in the northern foyer
- removing the hooded ventilation opening in the western podium, which was proposed for relocated plant, however is no longer required because this plant will instead be replaced in-situ with smaller equipment
- proposing a new accessible toilet in a back-of-house area instead of the lobby of the women's toilets, and removing the demolition of two cubicles in the public women's toilets on Level 3 from the scope of works, due to the resulting space saving from the relocated plant
- requesting an exemption from paying development contributions.



The RRtS was made publicly available on the Department's website and no public submissions were received. The Department forwarded the RRtS to Council and the Heritage Division.

Council did not object to the amended proposal, however stated it did not support an exemption from development contributions as the Sydney Opera House Trust is not a type of not-for-profit organisation listed in Council's exemption guidelines.

The Heritage Division responded regarding the impacts of the proposal on State Heritage values on 16 August 2019 and regarding National and World Heritage values on 16 October 2019. The Heritage Division stated that while the proposal would result in some heritage impacts, on balance the proposal is acceptable as:

- it would provide equitable access and upgrades to improve the use of the SOH as a premier performance venue, which retains the SOH's authenticity of use and function, and strengthens other heritage values
- the heritage impacts would be appropriately mitigated and managed subject to its suggested conditions.

## 5.7 Applicant's Supplementary Revised Response to Submissions

The Department placed a copy of Council and the Heritage Division's submissions on the RRtS on its website. The Applicant made separate responses as a Supplementary Revised Response to Submissions (Supplementary RRtS) to these submissions (**Appendix A**).

On 28 August 2019, the Applicant provided a response regarding to Council's concerns regarding development contributions, reiterating its position that it should be granted an exemption from paying development contributions.

On 13 September 2019, the Applicant provided a response to the matters raised by the Heritage Division regarding the impacts of the proposal on State Heritage values. The Applicant stated it considered the amendments previously made as part of the RRtS addressed the concerns raised by the Heritage Division, and therefore it did not propose any further amendments. The Applicant also stated the amendments were the subject of consultation with the Heritage Division and Heritage Council delegate.

The Supplementary RRtS was made publicly available on the Department's website and no submissions were received.



## 6. Assessment

### 6.1 Key assessment issues

The Department has considered the proposal, the issues raised in submissions and the Applicant's RtS, RRtS and further information in the assessment of the application. The Department considers the key issues associated with the proposal are heritage impacts and development contributions.

The Department's consideration of other issues relating to this application are addressed in **Section 6.4** of this report.

### 6.2 Heritage impacts

The SOH has local, State, National and World Heritage significance, requiring careful consideration of the impact of the proposal on this significance. The SOH Management Plan, the CMP and Utzon Design Principles provide the overarching framework for considering the impacts to the heritage significance of the SOH. As such, the Department has considered the relevant provisions of these documents in its assessment of the proposal.

The Heritage Impact Statement (HIS) provided a detailed assessment of the potential heritage impacts of the proposed works, having regard to the SOH Management Plan, the CMP and Utzon Design Principles.

The Department has separately considered the potential heritage impacts of the proposed works to the Concert Hall and the new Creative Learning Centre below.

#### Bilateral Agreement with the Commonwealth Government

As noted in **Section 4**, the Department has undertaken the assessment of the impacts of the development on Matters of National Environmental Significance (MNES), these being the National and World Heritage values of the SOH, in accordance with the Bilateral Agreement between the Commonwealth and NSW governments for the assessment of projects under the EPBC Act.

The SOH was World Heritage Listed in 2007 as having Outstanding Universal Value as a "masterpiece of human creative genius", for which the retention of its authenticity and integrity are the key considerations.

The SOH was included on the National Heritage List for the following values: events, process, rarity, aesthetic characteristics, creative or technical achievement, social value and significant people.

The Department has provided references to sections of the EIS, RtS and supplementary information, submissions, amended application and the recommended conditions of approval in this section of the report to satisfy the Commonwealth's assessment requirements.

The Applicant has addressed the Commonwealth requirements and assessed the impact of the development on MNES in its HIS prepared as part of the EIS and subsequent information. The relevant sections of the EIS are Chapter 6 – Environmental Planning Assessment and Appendix 11 – Heritage Impact Statement (Chapter 9 – Impact on National Heritage Values of the Sydney Opera House and Chapter 10 – Impact on World Heritage Values of the Sydney Opera House). The relevant sections of the RRtS are the Response to Heritage Council Submission Covering Letter, Attachment C – Revised Summary Assessment of Impact Tables, Attachment D2 – Response to National and World Heritage issues raised and Attachment H Heritage Impact Statement Addendum.



The Heritage Division has reviewed the Applicant's assessment and has determined the works would have an acceptable level of impact on MNES. A copy of the Heritage Division's advice on the EIS, RtS and RRtS is at **Appendix E**.

The Department has provided an assessment of the heritage impacts of the proposal below, and an overall conclusion regarding impacts on MNES following **Section 6.2**.

### **6.2.1 Works within and adjacent to the Concert Hall**

#### **Accessibility upgrades**

The proposal includes a number of accessibility improvements to the Concert Hall auditorium and foyers, which would facilitate wheelchair and mobility impaired access to the northern foyers and proposed wheelchair seating in the Concert Hall. The works are outlined in the SOH Accessibility Master Plan 2015 and have been coordinated with the front-of-house works to create access from the building entry to Level 2.

Specifically, the key works include a new passageway in the eastern foyer and lift in the northern foyer, along with other accessibility works, including handrails, sanitary facilities, accessibility upgrades to seating and upgrades to dressing rooms. The Department has considered these elements separately below.

#### ***Eastern Foyer Passageway/Accessibility upgrades to seating***

Presently all wheelchair seating is located at the front of the Concert Hall stalls, which is not compliant with the Building Code of Australia (BCA). The Applicant proposes to increase the number of wheelchair positions (up to 26) and improve the equity of their distribution throughout the Concert Hall.

The Applicant proposes on-grade access from the southern foyer at Level 2 to the corresponding level in the northern foyer, via a new passageway (**Figure 9**) cut through the eastern foyer stairs and back-of-house area that emerges on Level 2 in the northern foyer space known as "The Caves". This passageway would provide access to the northern foyer and connect with the proposed new lift (discussed in the 'northern foyer lift' section to follow). This would provide wheelchair and mobility impaired patrons with access to the Concert Hall.

The Heritage Division advise the changes relating to accessible seating will maintain a consistent language in terms of materiality and fabric and are considered acceptable, however states further details should be provided regarding the extent of original bronze guard rail that is proposed to be removed to make way for the seating and that, where possible, this should be retained.

The Heritage Division stated the passageway would have an impact on the SOH, including MNES, however, acknowledged the need for equitable access within the building and Utzon's plan for a tunnel near this location. The Heritage Division therefore advised as much of the original material of the stairs should be retained as possible, and its re-use maximised.

The Heritage Division noted the proposed bronze panelling on one wall of the new passageway and the southern wall in "The Caves" area and recommended further consideration be given to better aligning the material with the palette of materials of the SOH. The Heritage Division acknowledged the Applicant has investigated this with the SOH Design Advisory Panel and proposes to further investigate this and submit details as part of its Section 60 application under Part 4 of the *Heritage Act 1977* (Section 60 application), in consultation with a representative of the Heritage Council.

The Applicant proposes to replace guard rails at the rear of six boxes with new matching handrails to enable accessible seating to be installed, and to reinstate tapered handrails at the front of the boxes. All removed hand rails are proposed to be retained.



The Applicant states the width and alignment of the passageway has been positioned to provide a clear path of travel while keeping the existing stairs as wide as possible on either side of the entry. The HIS states the works would have high physical and visual impacts on the stepped podium, and the generosity of its stair width. It notes however, that the functionality of the space will be improved and will enhance accessibility to all public spaces of the SOH.



**Figure 9** | Eastern foyer passageway before (top) and proposed (above) (Base source: Applicant's RRTS)

The Department recognises the SOH was designed at a time where the principles of universal and equitable accessibility within the public realm did not exist. The Department also recognises the proposed accessibility upgrades to the Concert Hall, including the new lift and passageway, are integral components to improving the



building's compliance with WHS requirements, modern building accessibility standards (National Construction Code and Disability Discrimination Act 1992 – Disability (Access to Premises — Buildings) Standards 2010), and improving both performer and patron accessibility to the venue.

The Department supports the new accessible seating as it would be consistent with existing seating design and would improve equitability of use of the Concert Hall. The Department has also recommended a condition requiring clarification on the extent of the original bronze guard rail proposed to be removed to make way for the seating and that, where possible, this should be retained.

The Department acknowledges that the proposed works would result in the demolition of the building's original fabric and would alter a number of spaces. In particular, the proposed demolition of part of the stairs and creation of the accessible passageway would result in some impacts on the aesthetic qualities of the stairs. However, the Department notes the Applicant has explained the provision of a passageway in this location is consistent with the vision and original building design by Jorn Utzon, which envisaged passageways to the east and west of the Concert Hall (the design was amended after Utzon left the project in 1966, and the passageways were built over). The current proposal therefore closely aligns with Utzon's original intent for this space.

Additionally, the location of the passageway on the eastern side of the stairs has been carefully considered by the SOH's Design Advisory Panel to minimise impacts to original building fabric and spaces, and would be obstructed from external sight lines. The Department considers there is significant public benefit in providing 26 wheelchair seats and facilitating access to them, which would not be possible without the proposed passageway. The Department also supports the use of bronze panelling and further refinement of this element can be undertaken as part of the Section 60 application.

The Department also notes the Applicant proposes to store the removed stairs for potential re-use elsewhere at the SOH and the proposed works are reversible.

The Department's assessment therefore concludes the accessible seating and passageway would have an acceptable heritage impact whilst providing distinct accessibility benefits. To minimise the potential heritage impacts associated with the proposal, the Department has recommended conditions requiring:

- the retention of removed fabric, for reuse where possible
- the refinement of panelling treatment as part of the Section 60 application
- clarification on the extent of the original bronze guard rail proposed to be removed to make way for the seating and that, where possible, this should be retained
- the new concrete finishes to match the existing in both form and finish, to be determined in consultation with the nominated heritage consultant and to the satisfaction of a Heritage Council delegate.

### **Northern foyer lift**

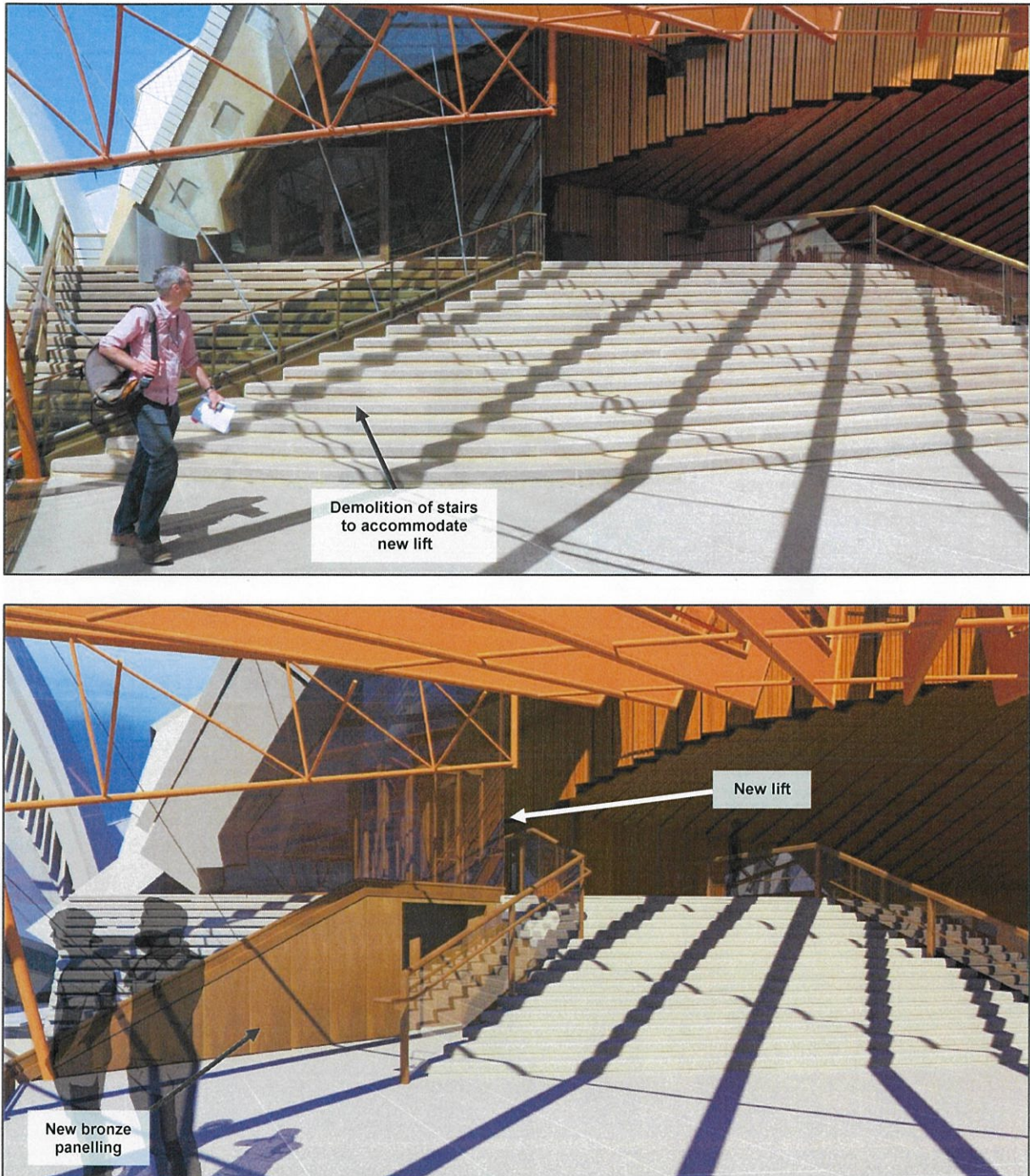
The Applicant proposes to install a new lift at the eastern end of the northern foyer (**Figure 10**). The lift would link with the proposed passageway on the eastern side of the Concert Hall to provide access to the northern foyer and various levels of the Concert Hall, including new wheelchair seating. The lift is similar to the recently completed lift in the Joan Sutherland Theatre (JST) northern foyer, and would not require any excavation below the existing floor level of Level 1 of the SOH.

The Applicant originally proposed two lifts in the northern foyer, however removed the lift on the western side from the scope of works following comments from the Heritage Division about its impact on aesthetics and fabric.

The Heritage Division noted the removal of the proposed western lift from the scope of works will reduce the intervention and impact on the northern foyer. The Heritage Division stated the proposal would have a high impact on external façade glazing, the broad sweep of stairs, and cranked concrete beams in the northern foyer and caves

below. However, it noted the modified area is confined to the ends of the glass wall which are relatively concealed by the shell and the projecting northern foyer glazing. It also noted the works will require minimal additional intrusion into the foyer space and minor changes to the steel structure.

The Heritage Division stated any new works, including new steps and concrete beams must match the existing in material, form, finish quality and workmanship. The Heritage Division stated the two proposed cranked beams connecting to the new lift should be revised to minimise its visual impact, if possible, as part of the Section 60 application.



**Figure 10** | Existing northern foyer (top) and with proposed lift (above) (Base source: Applicant's Architectural Statement)



The Applicant states the location and design of the proposed new lift has been carefully considered to minimise impacts on the existing stairs, glass roof and structural beams and the materials used are in keeping with the aesthetics of the SOH. The HIS states that whilst the lift would have a high impact on fabric, the works would have an acceptable visual impact and be distinct from the original design. The Applicant also states the works would improve accessibility to the Concert Hall and its foyers for a broader section of the public.

The Department notes the original architect Jorn Utzon proposed a lift in both the eastern and western areas of the northern foyer in the 2001 Strategic Building Plan and therefore the proposed new lift is consistent with Utzon's original intent. The Department also notes the lift car and lift shaft enclosures would be glass, which would maximise transparency. The cladding and floor finishes would be bronze, consistent with the existing finishes in the northern foyer, therefore minimising impacts.

The lift would result in minor external alterations to the existing glazing. The Department considers these works are minor in nature, sympathetic to the existing design, and unlikely to be readily visible or noticeable due to their location within the existing undulation of the northern foyer's glazing.

The Department considers the external works would not have an adverse impact on the SOH World Heritage Buffer Zone, detract from the scenic quality of the foreshore and waterway, or views to and from Sydney Harbour, as they are relatively minor and consistent with the design and scale of other similar elements at the SOH. The Department considers the visual impact would therefore be acceptable and would not detract from the overall appearance of the northern façade or the SOH in its entirety.

The Department considers the proposed works are consistent with those in other projects undertaken as part of the Building Renewal Program, and notes the architects for the Concert Hall (ARM) have consulted and worked with the architects for the JST, front-of-house design (including the Creative Learning Centre), and Bronze Project to agree on a coordinated design response for common elements of the SOH renewal project, including this lift. The Department notes the concern raised by the Heritage Division regarding the cranked beams, but accepts the Heritage Division's view that the further detailed design resolution of this element can be undertaken as part of the subsequent Section 60 application under Part 4 of the *Heritage Act 1977*.

The Department also notes the Applicant's proposal to store the pre-cast granite floor panels and double glass doors required to be removed for lift installation, for potential re-use elsewhere at the SOH.

The Department acknowledges the lift and accompanying new passageway would provide an accessible path of travel from the entrance/southern foyer to the northern foyer that is currently not available and that these works are anticipated in the SOH Accessibility Master Plan. Therefore, the Department concludes the lift would not have an adverse heritage impact and would improve accessibility within the building, subject to further refinement at the detailed design phase.

### **Handrails**

The existing stairs in the eastern and western foyers connecting the southern foyer at Level 2 to the Concert Hall entry doors at Level 4 do not comply with the relevant Australian Standard for Access and Mobility in relation to required handrails. The Applicant proposes to address this by adding new handrails in the centre of the eastern and western foyer stairs. The Applicant also proposes to replace non-compliant handrails throughout the Concert Hall with compliant handrails. All new handrails would utilise the Bronze Project kit of parts, which are to be implemented across all the public spaces affected by the SOH Renewal Projects, such as the approved JST upgrade.

The Heritage Division support the provision of handrails in this location, however requested the submission of further details demonstrating their consistency with those used in similar locations throughout the SOH and with the kit of parts document, with this document to also be submitted for the consideration of the Heritage Council.

The Heritage Division also requested the submission of further details of the installation of posts to support the handrails.

The Department agrees the installation of these handrails would improve the accessibility of the area, and notes these works would be reversible. Therefore, the Department considers the handrails are acceptable, subject to a condition requiring the details requested by the Heritage Division to be submitted as part of the Section 60 application.

### **Public amenities**

One new accessible toilet facility is proposed on Level 3 on the western side of the northern foyer, to comply with the BCA. The toilet would be constructed within the vestibule area of the existing Peter Hall male toilets.

The Department notes that a result of the replacement of the existing mechanical plant within the same room on the eastern side of the podium, accessible toilet facilities originally proposed to be constructed within the existing Peter Hall female toilet facilities vestibule area on Level 3 will now be relocated to an existing adjacent storage room. The retention of the existing plant room also eliminates the need for relocated ducting, which would have resulted in the removal of two original Peter Hall female toilets. This will see the retention of both Peter Hall toilet facilities in the northern foyer and is considered a positive outcome.

The HIS states that the design of the new accessible toilet is acceptable as it is consistent with the fit out and finishes of the adjacent original toilet fit outs and will enhance facilities for people with mobility impairments. The Heritage Division raised no concerns about the proposed toilet. The Department supports the new accessible toilet being provided for patrons of the SOH as the works are minor and would not result in any adverse impacts.

### **Dressing room upgrades**

The Applicant proposes upgrades to dressing rooms, including wheelchair access to some areas, and new sanitary facilities, including:

- the main rehearsal room, through the use of a small platform lift
- one new accessible bathroom adjacent to the male performer amenities
- accessible sanitary and shower facilities to three dressing rooms and one new non-accessible bathroom.

The works include the demolition of several internal walls to make spaces DDA compliant. The Applicant proposes to retain original Peter Hall fittings and re-use these in the upgraded dressing rooms.

The Heritage Division raised no concerns, however has requested the Applicant provide an assessment of fixtures and fittings as part of the Section 60 application, including the number and condition of Peter Hall dressing room facilities, to better understand the cumulative impacts on original Peter Hall spaces.

The Department considers the proposed alterations would have minimal heritage impact as the works are confined to discrete areas and would be consistent with existing Peter Hall materials, fittings and finishes, in accordance with CMP policies.

### **Acoustic upgrades**

The Applicant proposes a number of measures to improve the acoustic performance of the Concert Hall for both acoustic and amplified music. In order to undertake these works some existing parts of the Concert Hall interior require redesign and the introduction of new acoustic elements. These include acoustic reflectors, panelled box fronts, acoustic drapes and new lighting and speakers. These measures are discussed in turn below.



## Acoustic Reflectors

The Applicant proposes to replace the existing over-stage reflectors (**Figure 11**) with new adjustable reflectors, and install new operable side wall reflectors. The new over-stage reflectors are larger and more solid than the existing acrylic donut-shaped reflectors, and therefore have the potential to obscure views of the Concert Hall's organ and ceiling, which are significant original Peter Hall elements (**Figures 12 and 13**). The side wall reflectors are integrated into the existing side walls and are retractable when they are not in use (in amplified mode). The finish for the reflectors will match the existing White Birch wall and ceiling.

Following comments received from the Heritage Division, the Applicant has developed an "at rest" mode, for when the Concert Hall is in between performances (**Figure 14**). This is designed to position the over-stage reflectors to provide the least interrupted view possible of the Concert Hall's organ and ceiling, and retract the sidewall reflectors and stage risers. SOH noted there are minimal amounts of time the Concert Hall would be in "at rest" mode, which is essentially when it is in-between performances, and that this would typically be when tours occur. Tours usually take patrons to the upper circle for views, where there are generally better views of the organ and ceiling than from the lower levels.

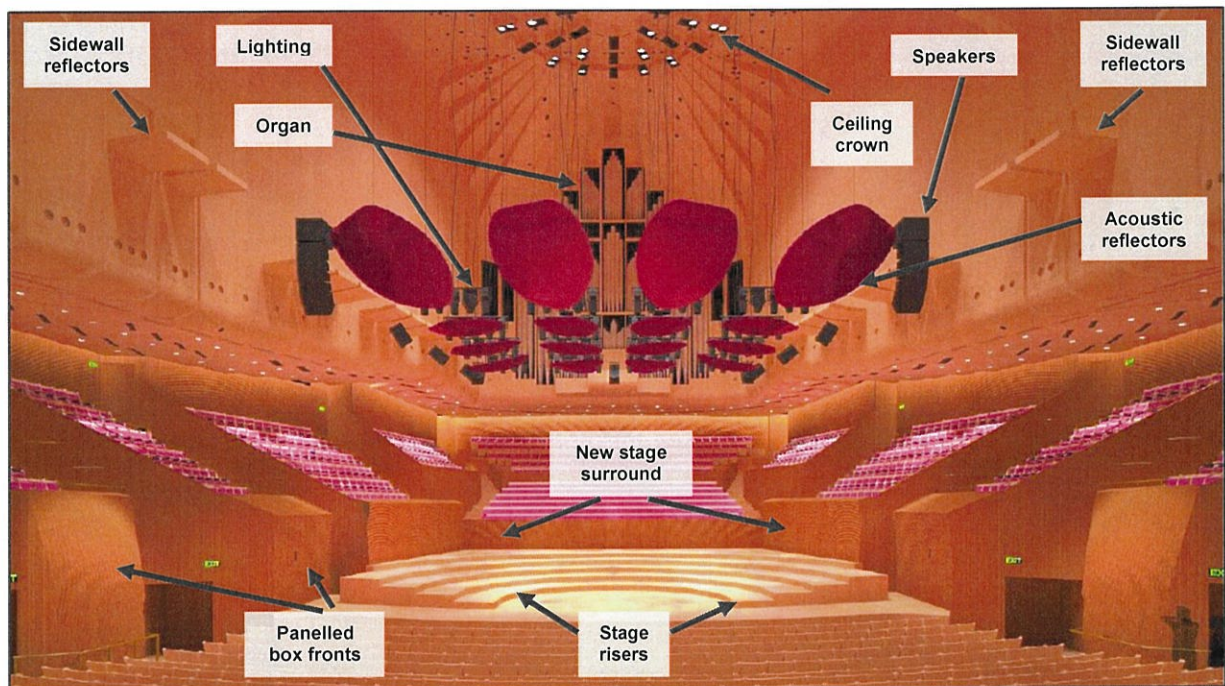


**Figure 11** | Existing Concert Hall showing existing acoustic reflectors and proposed stage risers (Base source: Applicant's Architectural Statement)

The Heritage Division advised the reflectors would have a high visual impact by masking views towards the grand organ and ceiling above and would increase visual clutter within the space, however it stated the proposed magenta colour would visually separate the elements, whilst remaining consistent with the original colour palette for the space. The Heritage Division noted uninterrupted views are only available from the circle during "at rest" mode, but accepted the Applicant's proposal to further develop the "at rest" mode policy update to the CMP in consultation with the Heritage Council as part of the Section 60 application.



The Heritage Division also advised the sidewall reflectors (**Figure 12**) would have a high visual impact when they are in use as they would interrupt the visual continuity of the ceiling panels, however as they will fold into the side wall when not in use, their visual impact is acceptable.



**Figure 12** | Concert Hall acoustic mode (Base source: Applicant's Architectural Design Statement)

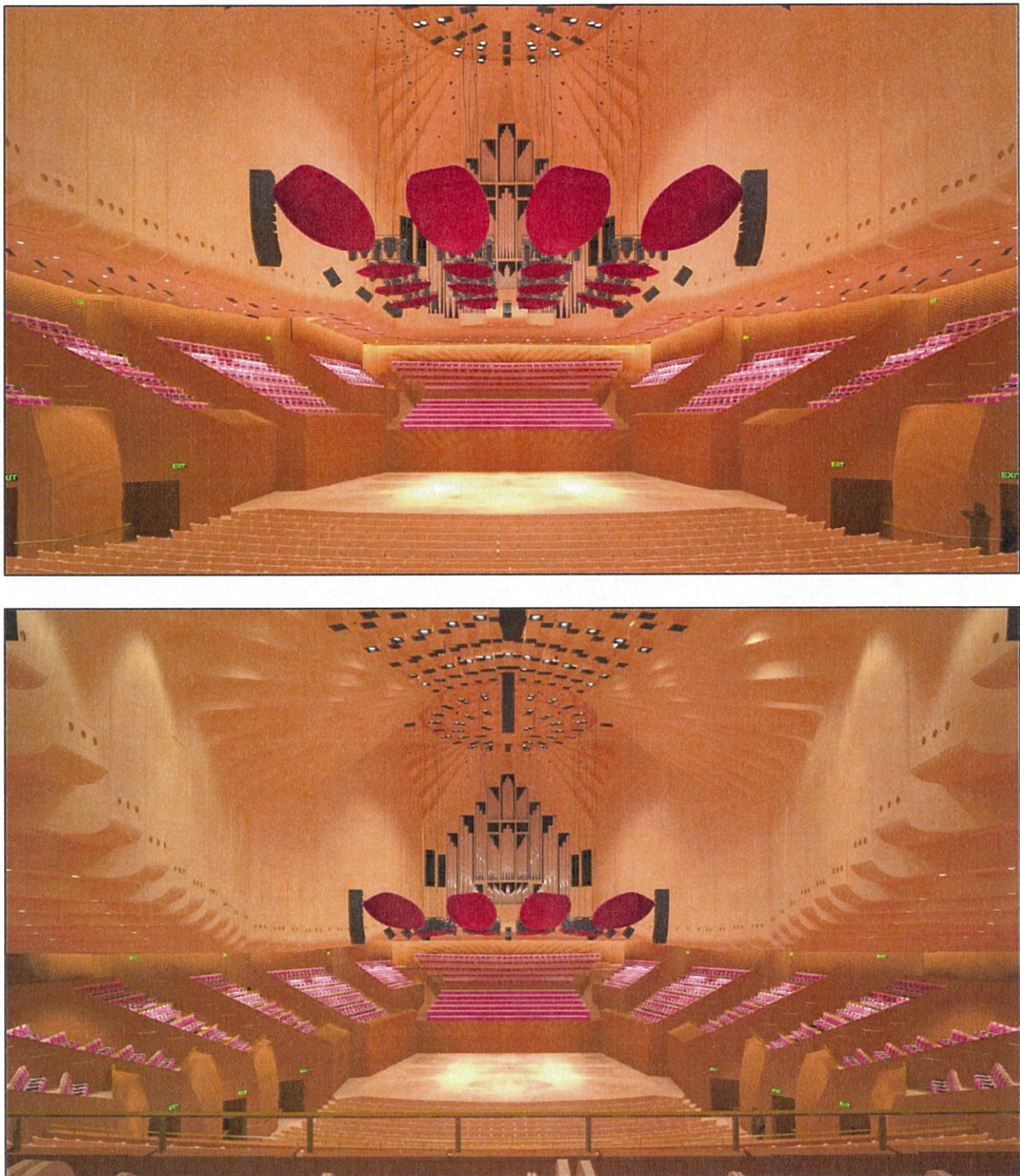


**Figure 13** | Concert Hall acoustic mode performance lighting mode (view from stalls) (Base source: Applicant's Architectural Design Statement)

The HIS states the acoustic upgrades would have high impacts on a limited amount of significant fabric and on key views to towards the grand organ and adjacent areas of the faceted ceiling, but states the impacts are minimised by the petal shape, which retains partial views through to the Grand Organ and can be rotated or flown upwards, depending on the acoustic needs of the performance.



The Department considers the impact of the side wall reflectors is acceptable, as the chosen acoustic options are a result of design refinement and have been subject to full-scale mock-ups, and the reflectors would be reversible, therefore limiting their impact. Further, the palette of materials chosen is similar to those used by Peter Hall in his original design of the Concert Hall, which would therefore mitigate visual impacts.



**Figure 14** | Concert Hall “at rest” mode from the Stalls Row X Seat 25 (above) and Upper Circle Row N Seat 25 (below) (Base source: Applicant’s RRtS)

The Department supports the over-stage reflectors, noting there are minimal amounts of time the Concert Hall is in “at rest” mode, and that during this time tour patrons can be taken to the upper circle, where the best views of the organ and ceiling are available. Further, the Department considers that due to these reflectors being permanently located within the Concert Hall, views of the organ and ceiling will inevitably be compromised from

some areas, but as the lights are dimmed during performances the visual impact of the reflectors is reduced during this time (**Figure 13**). The Department acknowledges the current acoustic reflectors were installed for their acoustic benefits despite having visual impacts, and therefore a precedent has been established whereby it is acknowledged that the function of the space as a performing arts centre is as important as its architectural quality.

Overall, the Department considers the proposal is acceptable, particularly given the overall acoustic improvement the reflectors would provide. Further, the Department is satisfied the potential heritage impacts can be appropriately mitigated and managed, subject to the recommended conditions suggested by the Heritage Division. These include a condition requiring the final colour and finish of the reflectors to be prototyped in-situ in the Concert Hall and approved by the Opera House's Conservation Council, Design Advisory Panel, and Heritage Architect. The Department also proposes conditions requiring an acoustic reflector to be archived, a strategy be developed to interpret the original reflectors and an "at rest" mode policy to be developed in the CMP, in consultation with the Heritage Council as part of the Section 60 application.

### **Panelled box fronts**

The Applicant proposes new timber panelling to the following areas: box fronts, stage surround, rear of the side boxes, rear wall of the circle, choir and rear wall of stalls (**Figures 12 and 15**). The Applicant also proposes to adjust box fronts and stage surround geometry to improve acoustic diffusion, response and reflection of sound. This would introduce a new wave form in the panelling, where these areas are currently relatively flat or saw-tooth shaped, and therefore have the potential to cause visual impact to the space. However, the Applicant notes that some areas proposed to be replaced (the current box fronts and side walls of the stage surround) were installed in 2011 and therefore not original material, and that prior to this they were saw-tooth shaped.

The HIS states that these works will have high physical impacts, with the loss of much of the significant 1973 wall fabric and the fabric installed in 2011. However, it considers these works acceptable as they will not greatly alter the character of the Concert Hall. It notes that the new panelling will result in improved acoustic benefits, and respects the original material of the auditorium by continued use of glue laminated brush box.

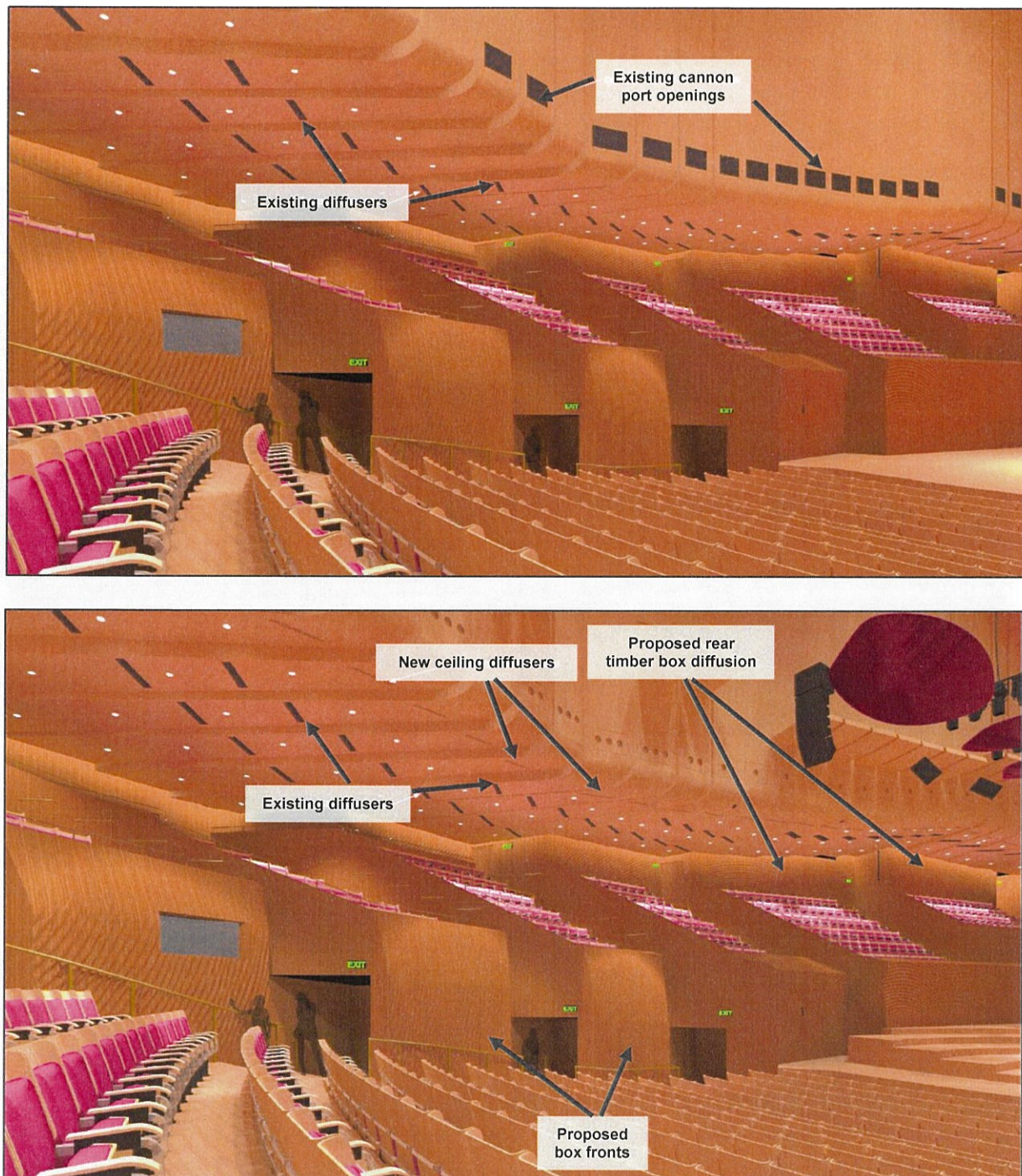
The Heritage Division stated the proposed works will have a major impact on significant fabric in the Concert Hall as it requires the removal of original Concert Hall components, and recommends works should be reversible and that new acoustic finishes or amended surfaces should overlay original material and forms. However, the Heritage Division advised the works are acceptable, subject to the submission of further details at the Section 60 stage, including the extent of box front removal.

The Department considers the proposed diffusive box fronts and rear wall surfaces are acceptable as they would be reversible, therefore limiting their impact as the original fabric could be reinstated at a later date. Further, the visual impact of the proposed new wave form is limited, as not all of the new box front panels would have an impact on original fabric, as some replaced material installed in 2011, and therefore a variety of forms has been introduced into the space (both flat and saw-toothed) since 1973. The Department agrees the saw-tooth box fronts were considered by Peter Hall as a somewhat visually intrusive element, however were installed due to their acoustic benefit. Therefore, the installation of these new elements, whilst having some visual impact, is acceptable as this is consistent with the original decision made during the construction of the Concert Hall. Moreover, it replaces an element that was not considered by the original architect to be of significant visual appeal. The Department concludes the works are acceptable given the proposed materials will match the existing and improve the acoustics of the building.

Consistent with the Heritage Division's recommendation, the Department proposes the following be resolved as part of the Section 60 application: clarification of the extent of removal of box fronts including the rear wall of side



boxes, rear wall of stalls and upper and lower circles to understand whether samples of 1973 box fronts can be retained in-situ and if new panels can overlay original materials and forms.



**Figure 15** | Existing (top) and proposed (above) panelled box fronts, diffusers and air conditioning alterations  
(Base source: Applicant's Architectural Design Statement)

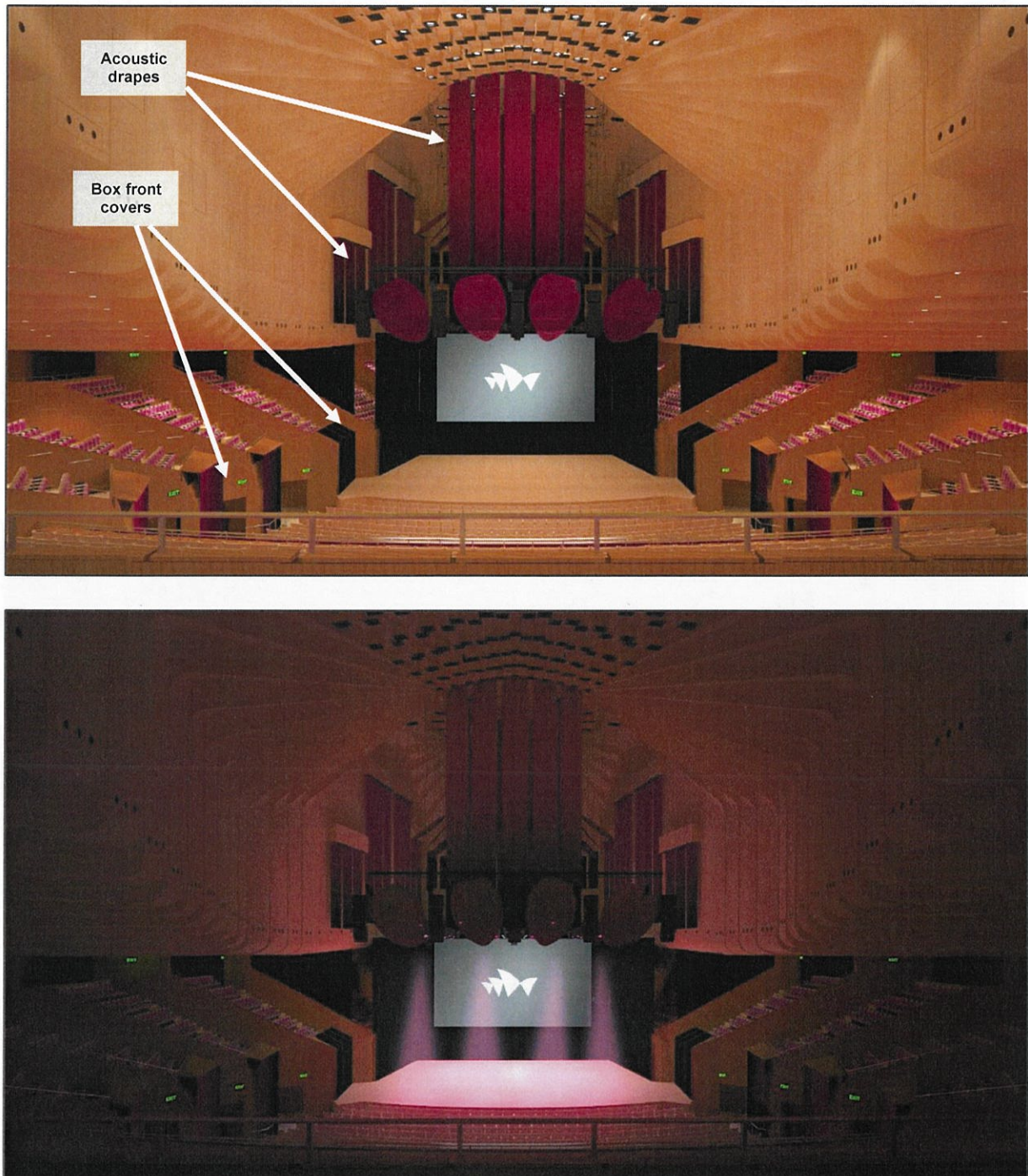
### **Acoustic drapes**

The current acoustic drapes used during amplified performances are deployed manually and in an ad-hoc manner, resulting in visual impacts on the quality and character of the space. The Applicant proposes new acoustically absorbent fabric on mechanically deployed banners above the stage and on stage-surround walls, box fronts and



rear walls, and the rear wall of the auditorium (**Figure 16**). These would be consistent with the existing colour palette in the Concert Hall.

The Heritage Division stated the drapes will have high impacts on original fabric and that further detail is required to resolve the design to ensure confidence that the impacts to significant fabric are minimised. However, as the new elements are automated and would completely fold into recesses and slots when not in use, the visual impacts of these elements can be controlled and therefore are acceptable.



**Figure 16** | Concert Hall amplified mode, viewed from the Upper Circle, with house lighting (top) and performance lighting (above) (Base source: Applicant's Architectural Design Statement)



The HIS states the modifications to the ceiling crown and side walls to accommodate the drapes and their machinery would have high impacts on the significant fabric and character of the Peter Hall interior. However, it states they have been designed to limit intrusiveness as much as possible, as when they are retracted, the crown and side walls would look as close as possible to their “at rest” configuration. The HIS also notes the Concert Hall is often darkened for many amplified performances which would limit visibility, and further that the overall impacts in terms of acoustic performance should be positive (**Figure 16**).

The Department acknowledges the drapes would have some visual impact, however this would be limited by the ability to completely retract them when not in use, and the use of colours consistent with the existing Concert Hall palette. Further, the drapes will not adversely impact on lighting of the Concert Hall interior and their location and configuration is consistent with the layout of the hall. However, the Department considers further details are required regarding the modifications to the ceiling and side walls to install the acoustic drapes, and proposes conditions to this effect. As previously discussed, the Department recommends a condition requiring the Applicant to further investigate the “at rest” mode with the Heritage Council as part of the Section 60 application. Subject to the recommended conditions, the Department’s assessment concludes the impact of the drapes is acceptable and the proposal would improve the acoustic performance of the Concert Hall.

### ***Lighting/speakers***

The Applicant proposes a new speaker amplification system and new lighting. The works include replacement of the two speaker arrays with three smaller arrays, and replacement of the rear stage speakers with a greater number of smaller speakers to both the sides and rear of the stage (**Figure 12**).

Due to the solid nature and extent of the reflectors, it would not be possible to light the stage from the circular ‘crown’ as is done presently. This would instead be achieved by suspended lighting trusses over the stalls and suspended lighting arrays between the acoustic reflectors. The lighting and speakers therefore have the potential to result in visual impacts.

The HIS states that the new lighting and speaker arrays have the potential to clutter the space and detract from views to the grand organ as well as the auditorium itself, but as they are associated with the other acoustic improvements such as the acoustic reflectors, they will also facilitate positive acoustic impacts. It finds that the impacts are acceptable provided the works meet several conditions, including ensuring speakers are as small as possible and raised high towards the ceiling or removed during non-amplified performance.

The Heritage Division advised the proposed new lighting and speaker arrays will result in additional clutter within the space and will partially obscure the significant Peter Hall elements, in particular the grand organ. This, combined with the new acoustic over-stage reflectors and acoustic drapes/banners, would result in adverse visual impacts. However, the Heritage Division stated the Applicant has proposed a number of measures to reduce visual clutter, including a reduction from five speaker arrays to three, the raising of the central speaker high towards the ceiling during “at rest” stage, and the positioning of the arrays either side of the stage in line with the over-stage reflectors.

The Heritage Division has therefore made a number of recommendations to maximise views to the grand organ and minimise clutter, and requested these details be submitted at Section 60 stage, including details of speaker and lighting colours and penetrations into the ceiling.

The Department considers the Applicant has revised the proposal to minimise its visual impacts and acknowledges that the replacement of the existing acoustic over-stage reflectors necessitates changes to the current speakers and lighting. The Department considers this provides an opportunity to further improve the acoustic performance of the Concert Hall. Whilst the acoustic reflectors, lighting and speaker arrays would result in some adverse visual impacts, these impacts are necessary for the SOH to maintain its status as a world-class venue. The Department also considers the Applicant’s proposal to undertake a significance assessment of existing machinery and

equipment for archiving purposes mitigates the impact of its removal. The lighting and speakers would also be reversible, allowing them to be removed in future if technical improvements warrant upgrades.

Overall, the Department's assessment concludes the proposed speakers and lighting are acceptable as they would improve acoustics within the Concert Hall, are reversible, and the recommended conditions would appropriately mitigate any impacts.

### **Functional upgrades**

The Applicant proposes a number of functional upgrades to the Concert Hall, including backstage works, air conditioning, stage works, seat refurbishment and technical zone works.

The Applicant states these works would improve the technical and operational capability of the Concert Hall regarding:

- accommodation of a greater diversity of performance modes
- safety for SOH staff and visiting hirers
- reducing the time required for set-up and change over between performance modes
- capacity of the back-stage area to better service the on-stage performances.

### **Backstage works**

The proposed backstage works include adjusting the floor level to align with the stage level, in order to provide level access onto the stage for pianos and performers, in replacement of the existing ramp. This would require the demolition of two toilet facilities, which the Applicant proposes to refurbish in the same position.

The Applicant also proposes automated stepped stage platforms, which require the backstage side wings to be extended into the eastern and western side foyers, and doors to the stage to be relocated. This will result in demolition within the anteroom and orchestra assembly room. This requirement, in conjunction with the new accessible theatre entries, requires modifications to the public entry to the front stalls and associated brush box panelling in the side foyers (**Figure 17**). The western and eastern foyers are essentially mirror images of each other.

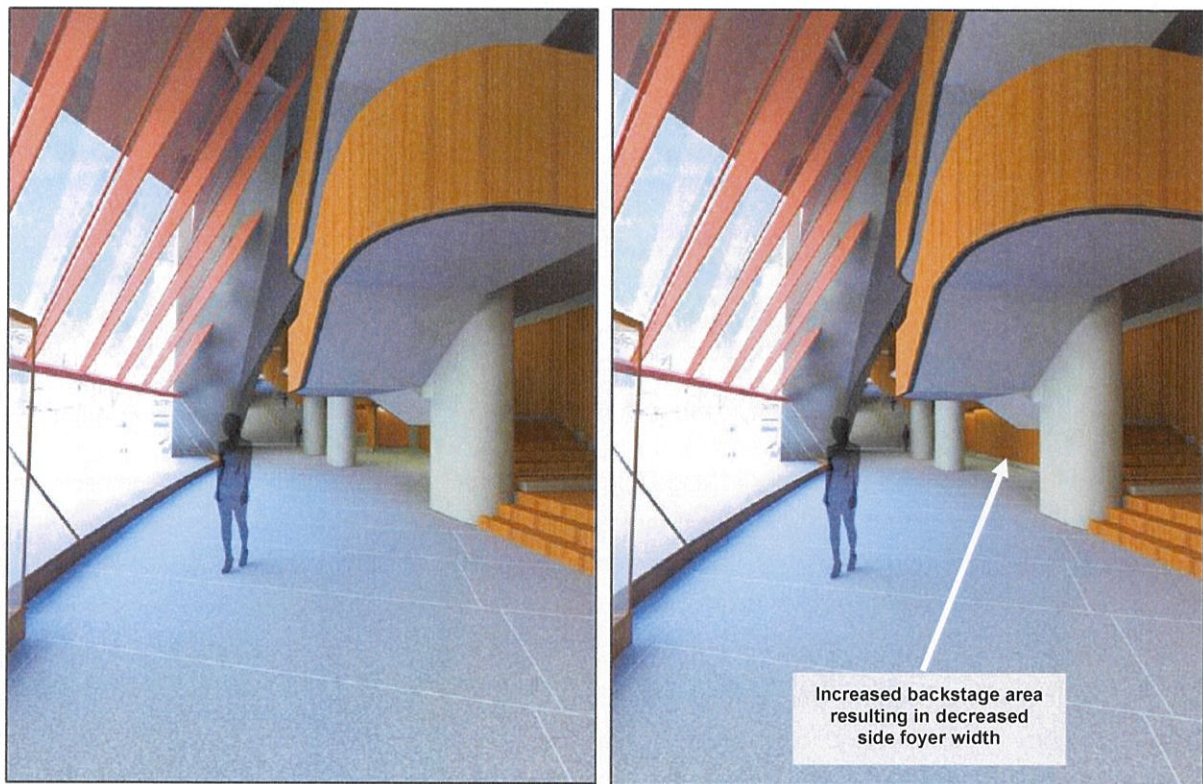
The HIS states that the proposed works will have minimal impact on significant structures but will provide substantial improvements to functionality and accessibility. It also states that the changes to the side foyers respect Peter Hall's geometry and set out of the auditorium entries and side foyers, and follow existing detailing and materials.

The Heritage Division advised that whilst the width of the side foyers would be reduced, the quality and character of space and the natural palette of materials and colours would be retained and respected, which would limit visual impact. The Heritage Division requested the relocated entry to the stalls should be reconsidered to provide better visual access and orientation to patrons, as part of the Section 60 application.

The Department considers the proposed extension into the side foyers would have minimal impact as it would not impact on typical paths of access through this space and would not impact on the openness of the space as it is located in an area of the building which has low ceiling heights. Further, the external appearance of the extension is acceptable as it would be clad with brush box timber panelling, consistent with the existing materials used in the side foyers. The Department has recommended a condition in accordance with the Heritage Division's advice regarding further consideration of the modified entry to the stalls. The Department considers the raising of the backstage floor level to match that of the stage and the works within the anteroom and orchestra assembly room are acceptable as these are minor, would see the refurbishment of the demolished toilets, and would not result in visual impacts within the Concert Hall. However, the Department proposes a condition requiring the final finishes within the anteroom and orchestra assembly room to be resolved with the Heritage Division as part of the Section



60 application. The Department also notes this work would facilitate the new stage risers, discussed in the stage works section to follow, which in turn require an extension to the back-stage area, and that the risers would improve acoustics within the Concert Hall.



**Figure 17** | Western foyer existing (left) and proposed (right) (Base source: Applicant's RRTS)

### **Air conditioning**

The Applicant proposes to upgrade the existing air-conditioning system to improve both acoustics and comfort. The proposed works include:

- new secondary air ductwork behind the side walls of the Hall (in existing services space)
- closing of existing cannon port openings and installation of new air conditioning diffuser outlets in the same or similar locations
- increasing the number of ceiling diffusers in the lower sections of the ceiling over the boxes, in order to distribute air supply more evenly and improve patron comfort (**Figure 15**)
- upgrade of the Concert Hall smoke exhaust capacity, in line with the requirement for an enhanced fire engineering performance
- upgrades to the Air Handling Units in plant room 12.

The HIS states the works would have a neutral visual impact, and that existing cannon port openings would be infilled with matching plywood to minimise impacts on the original fabric.

The Heritage Division advised the works are acceptable as they would minimise visual impact and recommends conditions requiring a full-sized mock-up of the cannon port openings be assembled before the works commence, to be resolved as part of the Section 60 application, and an evaluation be undertaken to assess the significance of the equipment prior to its removal, along with archival recording.

The Department notes these works would be reversible and therefore would have limited heritage impacts. The new ceiling diffusers would be longer and finer than at present and therefore would minimise its visual impact. The

Department recommends a condition requiring the existing cannon port openings to be infilled with matching plywood to minimise impacts on the original fabric, and conditions consistent with those recommended by the Heritage Division.

### **Stage works**

The proposed stage works include:

- redesign and reconstruction of the stage, including increasing its depth and lowering it to allow level access from the backstage area and improve sight lines from the stalls
- adjustable stage risers, in order to accommodate a variety of orchestral performance configurations (**Figure 12**)
- provision of under stage storage, including for automated storage of seating when the stage is extended.

The HIS states these works would improve sightlines from the audience, and improve the functionality of the stage, without impacting on significant fabric.

The Heritage Division advised the proposed stage upgrades would not result in significant visual impacts, and would improve functionality and sightlines from the audience, and recommended conditions requiring a full heritage assessment of existing machinery and equipment, with selected significant pieces to be archived, and for as much of the removed seating to be re-used as possible.

The Department considers the proposed stage upgrades would not result in significant impacts, and notes the under-stage storage would remove a number of WHS issues and make this process more efficient by removing the need for the first three rows to be manually removed. The Department has also recommended conditions consistent with those suggested by the Heritage Division.

### **Seat refurbishment**

The Applicant proposes to refurbish the existing Concert Hall seating to comply with requirements for fire engineering and improve acoustic performance. This would necessitate the refurbishment or replacement of the plywood seat elements, cushion foam and seat fabric. This would involve removal/modification to brush box walls at the rear of the seating in the boxes. The Applicant also proposes some seat bases that incorporate a quick release mechanism, for ease of removal for wheelchair use, different patron seating configurations and technical operations.

The HIS states these changes would have minimal impact on the character, material and configuration of the seating and the character of the Concert Hall.

The Heritage Division advised the removal of seating would have an impact on original fabric, however the replacement seating would retain and respect the original set out, form, details, materials, colour and finish of the existing Concert Hall seating. The Department agrees and notes that seats are only proposed to be replaced if they are beyond repair.

### **Technical zone works**

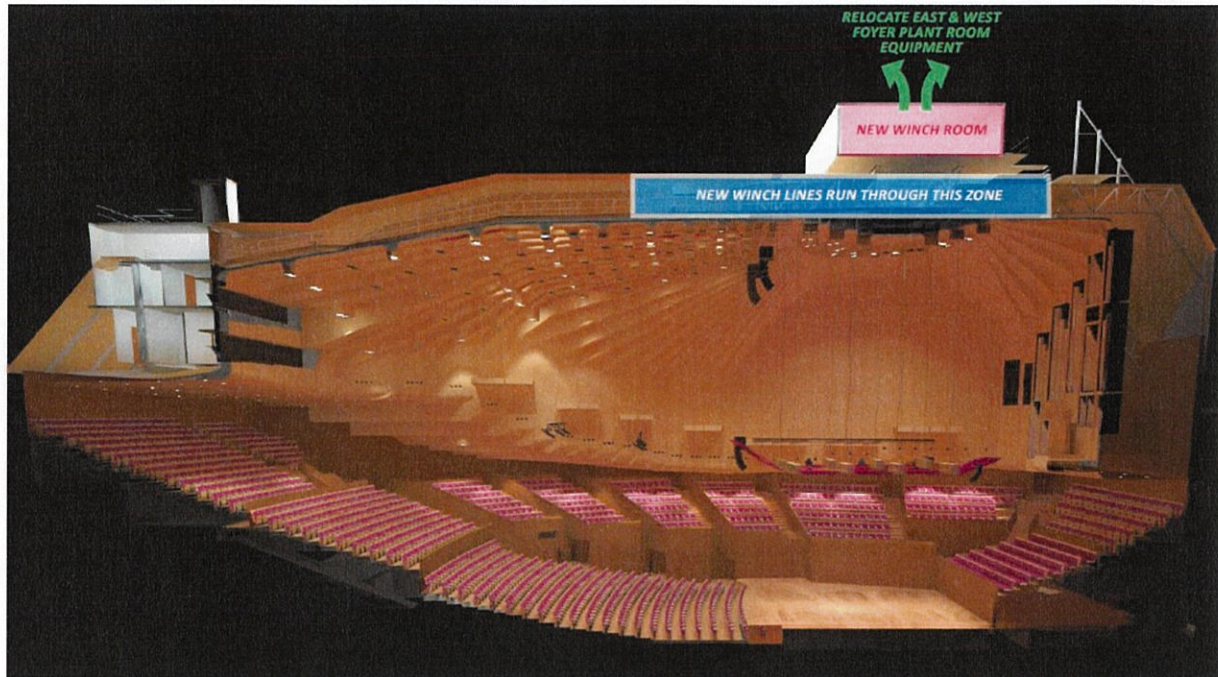
The HIS states that much of the existing machinery and equipment associated with the Concert Hall is approaching the end of its life and therefore requires replacement. It notes that if it is not replaced, safety and other compliance issues will remain and the efficient operation and management of the Concert Hall as a venue will be hindered, including its capability to cater for an increased range of performance modes.

The Applicant proposes a new technical equipment zone in the ceiling above the stage, which would accommodate a new winch room for an increased number of winches and associated equipment and improve



safety for personnel accessing this equipment (**Figure 18**). This new space would require the following changes to the building fabric:

- relocation of some plant room mechanical equipment
- reconfiguration and strengthening of the ceiling structure
- new penetrations in the existing ceiling to accommodate an increased number of rigging lines for the flying of acoustic and theatrical elements over the stage.



**Figure 18** | Concert Hall Diagrammatic Section showing technical zone (Source: Applicant's Architectural Design Statement)

The HIS concludes that the works will have minimal impact to significant spaces.

The Heritage Division advised the works would have minimal impacts, and that a full assessment of the significance of these items should be undertaken prior to removal of any items to ensure appropriate action is taken in regard to significant fabric prior to decommissioning.

The Department considers these works are acceptable as they would provide for the concealment of some of the automated acoustic systems, which would reduce visual clutter within the Concert Hall. The Department recommends a condition requiring that archival recording must be undertaken prior to removal.

### 6.2.2 New Creative Learning Centre

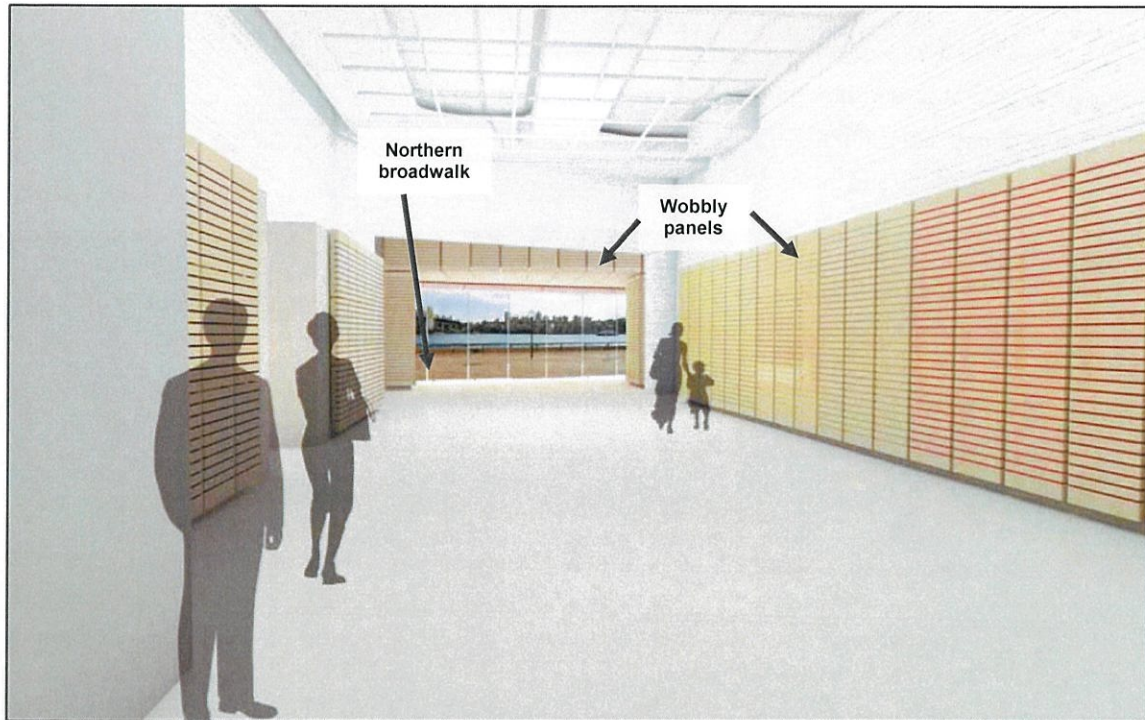
The Applicant proposes alterations to, and repurposing of, 292 m<sup>2</sup> of existing office space in the north-western corner of the SOH for a Creative Learning Centre (CLC), to be used as a dedicated space for the Children, Families and Creative Learning Program. This program is currently run throughout various spaces in the SOH. The CLC would be accessed from the western concourse as well as from the western foyers and would also host occasional small-scale events and functions. The elements associated with the CLC are discussed below.

#### Internal works

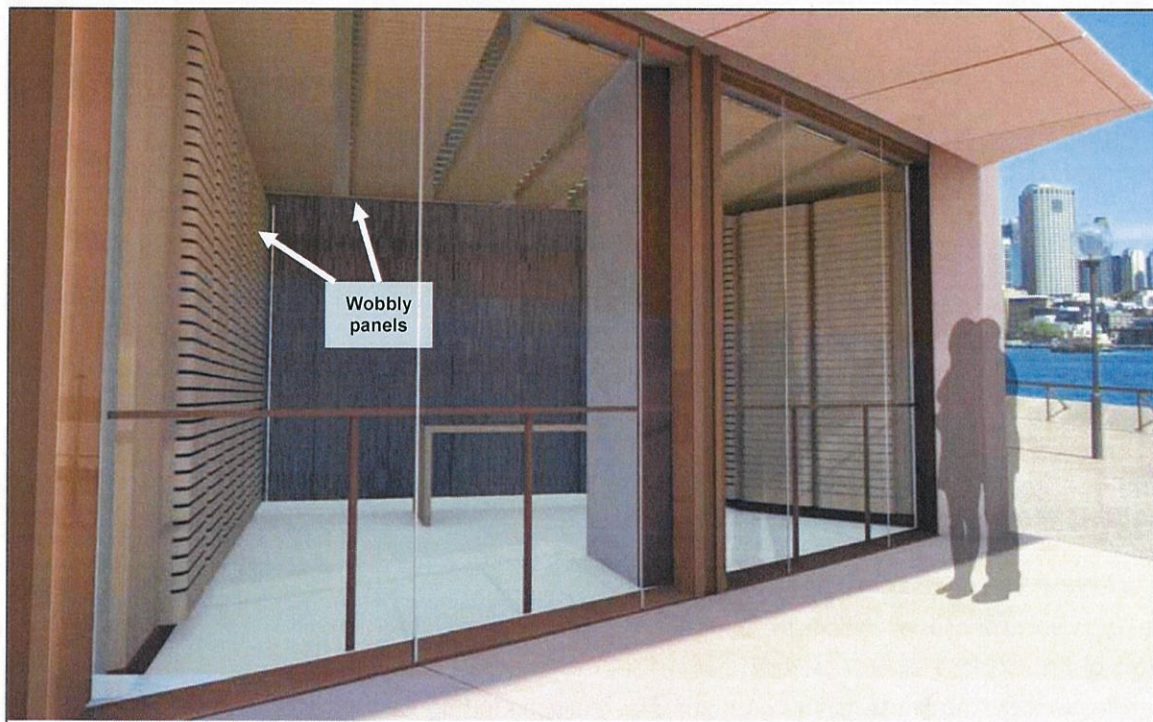
The CLC would provide a flexible space for hosting workshops, creative-play activities, talks and performances and a permanent digital classroom, and would include storage areas, a kitchenette and toilets (**Figures 8 and 19**).



There would be a display “stage”/digital learning space to the northern broadwalk (**Figure 20**).



**Figure 19** | Creative Learning Centre primary learning space (Base source: Applicant’s Architectural Statement)



**Figure 20** | Creative Learning Centre display ‘stage’/digital learning space viewed from the northern broadwalk (Source: Applicant’s Architectural Statement)

The Applicant proposes to partially demolish a curved concrete load-bearing wall towards the north of the existing office area to open up the primary learning space, as well as removing a number of existing internal walls and partitions. The existing Peter Hall white birch plywood “wobbly” panels that clad the ceiling within this space would be dismantled and reinstated as wall and ceiling cladding (**Figures 19** and **20**). The CLC would be



connected to the remainder of the SOH internally by an entry foyer off the northern end of the western foyer. This would involve the reconfiguration of walls and modification of existing storage units at the north end of the western foyer.

The Applicant states the proposed internal works to the CLC would require only minor alterations to the SOH building and would result in low impacts to the form, fabric and structural systems of the SOH. The works would also strengthen its association with the performing arts and wider community, as well as enabling the public to visually engage with this private space. The HIS states the impact of the internal works would be limited by consistency with the original design of the space. The HIS states the extent of demolition to the curved concrete wall has been limited in height in order to retain the maximum amount of the original wall and allow the original form of the wall to be interpreted.

The Heritage Division advised the cutting of the concrete wall would allow sufficient area of the original wall to remain, providing an understanding of the original curved corridor space and room configuration, and notes this is consistent with similar works approved in the Joan Sutherland Theatre Function Centre and Related Works application (SSD 7881).

The Heritage Division advised the works would have visual impacts as they would significantly alter the space, however it considers the reuse of the 'wobbly' panels for the wall and ceiling cladding will lessen the spatial impacts of the works. The Heritage Division also advised the negative impacts on authenticity of form and integrity associated with the removal of internal walls and partitions to create larger spaces and construction of a new toilet and other facilities are minor.

The Heritage Division considers the change in use of this publicly inaccessible office space to a dedicated area to engage with younger performers acceptable, as it will improve public access to this space, which is one of the main functions of the SOH, and that this would have a positive impact on National and World Heritage values.

The Department notes the internal works are reversible, thereby limiting their permanent heritage impact. The Department considers the CLC would not form a new or separate use within the SOH.

The Department considers the CLC would have positive impacts on the function of the SOH, as it would enhance the ability of the SOH to engage with and promote the performing arts to younger generations.

Further, the Department considers the impacts on the authenticity of the form and integrity of the SOH are acceptable, as the internal alterations required to provide the CLC would have a low impact on spaces and fabric within the SOH building. Previous interventions in the space as a result of its use as an office would also be reversed, including the removal of temporary walls and screening, allowing for the space to be read more clearly. A sufficient amount of the original concrete wall would remain to provide evidence and understanding of the wall and spatial arrangement of the space, and the structural integrity of the remaining wall would not be undermined by the works.

The impact from the removal of the existing fit out and 'wobbly' panels is mitigated by their re-use in the same space. The Department notes the new double door entry to the CLC from within the western foyer would match other venue entry doors in this space and that signage over the door would be consistent with other venue signage in this foyer.

The Department is therefore satisfied that subject to the recommended conditions, the proposed internal works and use of the area is acceptable as the proposal would not have adverse impacts on the heritage significance of the space, including on National and World Heritage values. The Heritage Division stated a photographic record should be provided before and after the CLC works.

### Relocation of double doors on western façade and new access ramp

The Applicant proposes a new granite access ramp and the relocation of the existing double doors on the western façade to be brought forward within the existing opening, with its setback from the western podium wall being reduced from 5 m to 1.95 m (**Figure 21**). No other changes to the western facade are proposed. The Applicant states the relocated door would provide for improved accessibility and functionality of the CLC by allowing for secondary access when an event is held in the western foyer, and separate access to amenities when the space is divided in two. The Applicant considers the amendments to be a minor modification that maintains the deep shadow of the existing entry.



**Figure 21** | Creative Learning Centre western facade door existing (left) and proposed (right) (Base source: Applicant's RRTS) Note: difference in colour is due to lighting in photograph

The Heritage Division raised no objection to the door relocation in principle, however considered it should be the subject of review to investigate a larger recess, to ensure the deep shadow of the existing entry is retained, as part of the Section 60 application.

The Department notes the concerns raised by the Heritage Division, however considers the doors and ramp would not have adverse impacts on the heritage significance of the site, including the World and National Heritage values, as the door has been relocated within the existing aperture and would remain setback from the western broadwalk and is recessed further than the door in a similar position on the eastern broadwalk. The proposed enlarged entry would retain the scale, materials, design and visual quality of the western elevation, and would not add to the bulk or mass of the building. As previously discussed, the works would improve internal access and are reversible, thereby limiting its permanent heritage impact.

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.



## Events and functions

The Applicant states the CLC would host occasional small-scale events and functions, for example for gatherings prior to events in the Concert Hall or western venues. The Applicant states any caterer providing alcohol would be required to comply with their liquor licence, including, where required, maintaining a Plan of Management (PoM) that would address matters including operating hours, responsible service of alcohol and security measures. The Applicant states that unlike the function centre in the north-eastern area of the SOH (SSD 7881), the venue would not be available for public hire. The Applicant proposes the CLC would be used in daytime hours primarily for the creative learning use, whilst the small-scale events and functions (when held) would occur in the evening hours. The Applicant proposes a capacity for the venue of 150.

The Applicant requests the CLC be open for use 24-hours-a-day, seven-days-a-week, and in terms of functions where liquor would be served, requests the last service of alcohol would be no later than 1.30 am, seven-days-a-week.

The Council and EPA did not raise any concerns in relation to operational noise from the CLC.

The EIS states there would be no impact on external noise receivers as the area is fully air conditioned (and therefore can remain enclosed). The Department agrees and considers acoustic impacts acceptable.

The Department considers the proposed hours of operation are acceptable as they are consistent with other venues in the SOH. The Department also considers the service of alcohol until 1.30 am, seven-days-a-week would be acceptable as it is consistent with other venues across the SOH, including the adjoining licensed area of the western foyers and the function centre in the north-eastern area of the SOH.

The Department also considers the use of this space for events and functions is acceptable as it would only be used occasionally when the space is not being used for its principal creative purpose. The Department notes the CLC would provide for a more private venue for the types of events proposed in this space, such as opening night parties or functions pre and post events, which are sometimes currently held in more public areas such as the western foyers. However, the Department recommends a condition preventing the use of the CLC for private functions, unless associated with performances and events in the Opera House venues. The Department also proposes conditions to ensure doors remain closed after 8 pm to limit noise impacts, limit the capacity to 150 patrons, and restrict the hours of operation from 7 am to 1.30 am seven-days-a-week when the space is not used for the Children, Families and Creative Learning Program.

The Department's assessment therefore concludes the occasional use of the CLC is acceptable as it would be ancillary to its primary use as a creative space and would not result in adverse impacts.

## Conclusion on Matters of National Environmental Significance

The Department considers impacts on MNES have been adequately addressed by the Applicant. The Department confirms the proposal is compliant with sections 137 and 137A of the EPBC Act, in that the proposed action is not inconsistent with:

- Australia's obligations under the World Heritage Convention, as the works have been thoroughly assessed and found not to adversely impact on the Outstanding Universal Value of the SOH, including its authenticity and integrity
- the Australian World Heritage and National Heritage management principles, as a management plan has been prepared for the site (the CMP), and the proposed controlled actions that may affect the property (MNES) have been assessed in consultation with the community and determined to have an acceptable impact

- the SOH CMP, (the relevant management plan for the SOH prepared under the EPBC Act) as it would be sympathetic to the on-going conservation and management of the SOH, including through ensuring new works are consistent with existing materials, ensuring new works are reversible where possible, and retaining and re-using removed fabric. Further, the Department has recommended a condition to require the CMP to be updated to reflect the changes proposed, including the development of the “at rest” policy for the Concert Hall.

### ***The level of impact on MNES***

The Department considers the works would either have a positive impact on National and World Heritage values, or where not, these are considered acceptable.

For the following matters, these impacts would be significant (as previously discussed in this section):

- eastern foyer passageway, through visual and physical impacts on original spaces
- northern foyer lift, including the visual and spatial impact on the adjacent stairs and cranked concrete beams.
- speaker and lighting arrays, requiring additional ceiling penetrations and resulting in visual impact
- new timber panelling to the box fronts and stage surrounds
- air conditioning upgrades, including the increase in the number of ceiling diffusers and closing up of canon port openings
- new acoustic drapes and general visual impact of clutter within the Concert Hall, including on views to the organ and ceiling, some of which is used only during specific performances
- reconfiguration of Concert Hall entry from the side foyers
- modification of the recessed entry from the western broadwalk, which results in a reduction to the deep shadow on the existing entry.

For the following matters, the negative impacts would be minor (as previously discussed in this section):

- new handrails, toilets and seating for the purposes of improving accessibility
- changes to the stage levels and automation
- new technical equipment zone above the stage ceiling
- seat refurbishment
- removal of internal walls and partitions and construction of a new toilet in the Creative Learning Centre.

### ***Avoidance, mitigation and/or offset measures***

The Applicant has avoided impacts associated with the project through the following means:

- removal of one of the two lifts in the northern foyer
- re-evaluating plant space, which has avoided the need for a new ventilation hood in the western podium and the need to modify the original Peter Hall female toilets in the northern foyer
- consideration of design options, resulting in one side foyer passageway rather than two
- avoidance of continued non-compliance with modern accessibility standards, which is exclusive to the disabled and mobility impaired and reduces the level of patron experience
- avoidance of non-replacement of acoustic reflectors, which would affect the capacity of the SOH to maintain its status as a premier entertainment venue



- avoidance of functional improvements would compromise the capacity of the SOH as a premier performance space
- avoidance of the Creative Learning Centre works, which would inhibit the ability to provide a permanent location for the Children, Families and Creative Learning Program and provide for creative entertainment for children.

The Applicant has mitigated and offset the impacts of the project through the following means:

- further refinement of bronze panelling in the eastern foyer passageway
- provision of petal-shaped reflectors to allow view of the organ and ceiling where possible
- provision of an “at rest” mode to allow for maximum appreciation of the grand organ and ceiling
- reduction in the number of central speaker arrays from five to three
- provision of fully retractable drapes and side wall reflectors, to minimise permanent visual impact
- prototyping of diffusive panels to box fronts, stage surrounds and perimeter wall, acoustic reflectors, drapes and sidewall reflectors
- retention of original fabric for future reuse where possible
- reversibility of several elements of the works, resulting in non-permanent impacts, including the eastern foyer passageway, handrails to the eastern and western foyer stairs, over-stage reflectors, lighting and speakers, paneled box fronts, and internal fit out and relocation of entry doors for the Creative Learning Centre
- general use of materials matching the original colour palette or high quality materials to distinguish new works, such as bronze panelling in the passageway
- agreeing to amend the existing Heritage Interpretation Strategy prepared under EPBC 2016/7825 for the SOH Safety, Accessibility and Venue Enhancements works (SSD 7665), to include the Concert Hall works, including interpretation of the acoustic reflectors and a significance assessment of machinery and plant equipment and archiving
- agreeing to update the CMP to reflect the works proposed in this application
- proposing to further refine several elements through the Section 60 application with input from the Heritage Council delegate, including in-situ prototypes of the over-stage acoustic reflectors and air conditioning canon port openings, final finishes for the eastern foyer passageway, northern foyer lift, handrails, concrete, and construction methodology for the sidewall reflector panels and acoustic drapes.

### ***Conclusion regarding the acceptability of impacts compared with benefits***

The Heritage Division advised the works proposed in this application, when also considered with the entirety of the Building Renewal Program (**Section 1.3**), would have a high cumulative impact on the heritage values of the SOH. However, the Heritage Division stated it and the Heritage Council have worked closely with the Applicant to refine this assessment, and is satisfied that further work can be undertaken as part of the Section 60 application. The Heritage Division concluded the works would have an acceptable level of material effect on the heritage significance of the SOH, including National and World Heritage values.

The Department notes the works are supported by Council and the Heritage Division and SOH Design Advisory Panel, Conservation Council and Heritage Architect. The proposal would also be subject to ongoing advice and input from the Heritage Architect and the approval of the Design Advisory Panel and SOH Conservation Council during the design development and documentation process, including as part of the Section 60 application under Part 4 of the *Heritage Act 1977* and application under the EPBC Act.

The Department referred the draft report and conditions to the Commonwealth Department of the Environment and Energy, who advised it is satisfied the documents will provide its Minister with sufficient information to make an informed decision on the project.

The Department considers the Applicant has implemented sufficient measures to avoid, mitigate and offset heritage impacts. The Department acknowledges the need to balance the roles of the building as an architectural monument and as a state-of-the-art performing centre, in order to maintain its authenticity of use and function. The works would improve the SOH considerably as a performing arts venue, by improving patron and performer comfort, through improved compliance with modern accessibility standards, improved acoustics in the Concert Hall, and improved functionality of the Concert Hall stage, back-stage areas and performer dressing rooms.

The Department's assessment therefore concludes the cumulative impact of the works are acceptable, particularly noting the cumulative benefits of the proposed elements in working together to improve the accessibility, acoustics and functionality of the SOH.

The Department considers impacts to MNES under the EPBC Act will be acceptable, subject to the implementation of the mitigation measures described in the EIS, subsequent documentation, and the requirements of the recommended conditions of consent. The Department recommends that the DoEE considers and adopts these recommendations which are set out in Part A (condition A25), Part B (conditions B17–19, B24–25, B29, Part C (conditions C16–17, C38) Part D (condition D4), Part E (condition E7), and reproduced in **Appendix F**.

### 6.3 Development Contributions

The Central Sydney Development Contributions Plan 2013 (Contributions Plan) enables Council to seek contributions (1% of the development cost) from new or existing public facilities, amenities and services in Central Sydney. This would equate to approximately \$1.15 million for the proposed works.

Section 2.2(c) of the Contributions Plan identifies circumstances in which exemptions from a levy can be applied, including not-for-profit development. The Contributions Plan defines not-for-profit development as "development undertaken on a cooperative or not-for-profit basis that provides a distinct community benefit, including but not limited to childcare services and emergency services such as fire stations, police stations and ambulance stations".

The Applicant has sought an exemption from paying contributions as it is a not-for-profit organisation, the works would provide economic and public benefit and are consistent with achieving the objectives of the Contributions Plan.

Council does not support the Applicant's waiver request because the SOH Trust is not a type of not-for-profit organisation listed within Council's 'Administrative Guideline for Exemptions in the Central Sydney Development Contributions Plan 2019', which includes health services facilities, places of public worship and community facilities. Council therefore considers an exemption would be inconsistent with the CSDCP and guideline.

The Department notes the definitions of not-for-profit development in the Contributions Plan and Guideline differ. The Department notes Council's Contributions Plan was finalised in 2013, and the Guideline was finalised in 2019, to assist officers in interpreting and applying the Contributions Plan. In particular, the Contributions Plan states 'including but not limited to' and the Guideline states "development types....are". The Guideline therefore appears to narrow the range of what can be regarded as development undertaken on a not-for-profit basis that provides a distinct community benefit.

The Department has reviewed and considered the Applicant's justification and Council's views and considers an exemption from payment of development contributions is acceptable in this instance as:



- 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 will not intensify patronage to the SOH and therefore not have any impact or demand for Council facilities
- 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
- the works would improve accessibility to the Concert Hall, and improve its functionality and acoustic performance
- the proposal is in the public interest.

The Department also notes the Minister is not bound under section 7.13 of the EP&A Act to impose a condition requiring a development contribution under the Contributions Plan. The Department's assessment therefore concludes that development contributions should not be applied to this project.

## 6.4 Other Issues

Other relevant issues for consideration are addressed in **Table 3**.

**Table 3** | Summary of other issues raised

Issue	Findings	Recommended Condition
Construction noise/hours	<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 has outlined the following work program: <ul style="list-style-type: none"> <li>○ 10.30 am to 6 pm – general construction works and no major noise generating activities</li> <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> </ul> </li> <li>• EPA considers 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.</li> <li>• The Noise Impact Assessment concluded there would be no significant impact on surrounding sensitive receivers, as construction noise levels would be below the relevant noise criteria.</li> <li>• The Department notes the majority of the proposed works are contained within the SOH building, and would therefore be inaudible to surrounding receivers. On this basis, the Department considers that the internal building works can be undertaken on a 24-hours-a-day, 7-days-a-week basis.</li> <li>• However, the Department notes that the proposal also includes some external building works (alterations to northern foyer glazing due to lift installation) which could result in impacts to surrounding sensitive receivers.</li> </ul>	<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>• Internal building works can be undertaken on a 24-hours-a-day, 7-days-a-week only where they are wholly enclosed within the building</li> <li>• The Applicant to prepare a Construction Noise and Vibration Management Plan outlining management and mitigation measures to minimise impacts on nearby receivers.</li> </ul>

	<ul style="list-style-type: none"> <li>• The Department considers that these external building works should be undertaken within standard construction hours and a CNVMP be prepared.</li> <li>• These measures are consistent with recent approvals at the SOH, including for the Joan Sutherland Theatre (SSD 7665) and Function Centre (SSD 7881).</li> <li>• Subject to the recommended conditions, the Department considers there will be no adverse construction noise impacts.</li> </ul>	
Construction traffic	<ul style="list-style-type: none"> <li>• The proposed construction works would generate up to 56 truck movements per day at the following times: <ul style="list-style-type: none"> <li>◦ 7 am to 6 pm (day): up to 40 movements</li> <li>◦ 6 pm to 10 pm (evening): up to 10 movements</li> <li>◦ 10 pm to 7 am (night): up to six movements.</li> </ul> </li> <li>• TfNSW requested a condition of consent requiring the Applicant's existing Construction Pedestrian and Traffic Management Plan (CPTMP) to be updated to include consideration of the cumulative transport impacts of all activities in the surrounding area.</li> <li>• The Department considers the proposed construction vehicle movements would have minimal impact on the amenity of the nearby residences and a negligible impact on the performance of the surrounding road network, because the number of movements is relatively low and the majority of construction vehicle movements would occur during standard construction hours.</li> <li>• The Department also notes the construction traffic generated by the proposal would largely occur when the Concert Hall is closed for an 18-24 month period, therefore coinciding with the associated traffic reduction from the closure.</li> <li>• Subject to the recommended conditions, the Department considers there will be no adverse construction traffic impacts.</li> </ul>	<ul style="list-style-type: none"> <li>• The Applicant to update the CPTMP, in consultation with TfNSW.</li> </ul>
Access and pedestrian safety	<ul style="list-style-type: none"> <li>• The Department has assessed the potential access and pedestrian safety impacts associated with the proposal.</li> <li>• The Department considers the development would not have an adverse impact on pedestrian movement and access to/from the SOH due to the use of the underground loading dock, construction hoardings and maintenance of public access along the SOH perimeter.</li> <li>• The majority of deliveries and removal of materials would be via the underground loading dock (accessed from Macquarie Street).</li> <li>• Public areas affected by the works would be enclosed by construction hoardings and sealed off from public access.</li> <li>• Public access would be maintained along Macquarie Street and the entire SOH public perimeter, including the southern forecourt.</li> <li>• The Department concludes there will be no adverse impacts on access and pedestrian safety due to maintenance of existing public access, the use of hoardings and the underground loading dock.</li> </ul>	<ul style="list-style-type: none"> <li>• No necessary conditions</li> </ul>



Waste Management	<ul style="list-style-type: none"> <li>• The Department has assessed the potential waste management impacts associated with the proposal and considers they can be managed appropriately, subject to conditions.</li> <li>• EPA recommended the Applicant implement measures to manage waste (including hazardous waste) during construction.</li> <li>• Waste would be recycled where possible and a Waste Management Plan would be prepared in accordance with the NSW Waste Avoidance and Resource Recovery Strategy 2014-2021.</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 concludes construction waste would be managed appropriately, subject to the proposed conditions requiring the preparation of a Waste Management Plan and an Unexpected Finds Protocol.</li> </ul>	<ul style="list-style-type: none"> <li>• The Applicant to prepare a Waste Management Plan to ensure any hazardous waste is removed in accordance with the relevant SOH Management Plans and the relevant regulations.</li> <li>• The Applicant to implement procedures for dealing with unexpected site contamination finds.</li> </ul>
Construction management	<ul style="list-style-type: none"> <li>• The Department has assessed the potential construction managements impacts associated with the proposal and considers they can be managed appropriately, subject to conditions.</li> <li>• EPA recommended the Applicant implement measures to manage dust and sediment during construction.</li> <li>• EESG requested a condition requiring a Construction Environmental Management Plan (CEMP) that addresses the avoidance of impacts on the water quality of the harbour and includes associated mitigation measures.</li> <li>• The Department concludes construction impacts would be minor and can be effectively managed in accordance with the recommended conditions, including updating the CEMP.</li> </ul>	<ul style="list-style-type: none"> <li>• The Applicant to update the CEMP to include further details on matters including air and water quality, and erosion and sediment control.</li> </ul>
Operational noise	<ul style="list-style-type: none"> <li>• The Department has assessed the potential operational noise impacts associated with the proposal, and considers they can be managed appropriately, subject to conditions.</li> <li>• EPA recommended the Applicant be required to ensure mechanical ventilation plant is selected, installed and operated to avoid adverse impacts on sensitive receivers.</li> <li>• The Applicant's Noise Impact Assessment concludes there will be no significant impact on sensitive receivers.</li> <li>• The Department concludes potential operational noise impacts can be appropriately managed, subject to a condition requiring mechanical plant to comply with the relevant policy.</li> </ul>	<ul style="list-style-type: none"> <li>• Mechanical plant to comply with the NSW Noise Policy for Industry.</li> </ul>



## 7. Evaluation

The Department has reviewed the EIS, RTS, and all additional information, and assessed the merits of the proposal, taking into consideration advice from Council and government agencies. Issues raised in public submissions have been considered (as outlined in **Appendix B**) and all environmental issues associated with the proposal have been thoroughly addressed.

The Department has considered all relevant matters under section 4.15 of the EP&A Act, the objects of the EP&A Act, principles of ecologically sustainable development (as outlined in **Appendix C**) and MNES under the EPBC Act, as required by the bilateral agreement between the Commonwealth and NSW Government.

The Department has carefully considered the impacts associated with the proposal, and considers it should be approved for following reasons:

- the proposed works would improve accessibility to the building through the provision of additional wheelchair seating, a new accessible passageway through the eastern foyer and a new lift in the northern foyer. This would deliver on part of the SOH Building Renewal Program by improving the operational efficiency of the building and compliance with modern building, accessibility and WHS requirements
- it would improve the acoustic performance of the building through the use of new acoustic reflectors, acoustic drapes, lighting and speakers. This would ensure the SOH retains its status as a world-class performance venue
- the heritage impacts associated with the proposal, including impacts on Matters of National Environmental Significance (National and World Heritage values) are acceptable as they would retain the SOH's use and function, strengthen other heritage values, and improve the use of the SOH as a premier performance venue. The Department also notes the proposed external works are limited to minor alterations to existing glazing associated with the northern foyer lift, and these works would not impact upon the external appearance of the SOH as they are sympathetic to the existing design and materials and would not be readily visible from outside the building. Further, the Department has recommended a suite of conditions to appropriately mitigate and manage the potential heritage impacts associated with the proposal, including a requirement for the CMP to be updated to reflect the changes proposed and a Heritage Interpretation Strategy to be prepared.
- the Applicant's request for exemption from payment of development contributions is acceptable, in this instance as it is a not-for-profit organisation, the works would not increase demand for Council's facilities, the works would improve accessibility to the building and revitalize an important cultural institution and public asset which provides significant economic benefits to Sydney's economy
- all other issues associated with the proposal have been assessed, and appropriate conditions recommended, where necessary, to ensure the impacts of the development are appropriately mitigated and/or managed.

The Department also 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.

The Department's assessment therefore concludes the proposal is in the public interest and recommends the application be approved, subject to the recommended conditions.





## 8. Recommendation

It is recommended that the Minister for Planning and Public Spaces:

- **considers** the findings and recommendations of this report
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to grant consent to the application
- **agrees** with the key reasons for approval listed in the notice of decision
- **grants consent** for the application in respect of SSD 8663, subject to the conditions in the attached development consent
- **signs** the attached development consent and recommended conditions of consent (see **Appendix D**).

Recommended by:

**Cameron Sargent**

Team Leader

Key Sites Assessments

Recommended by:

**Anthony Witherdin**

Director

Key Sites Assessments

Recommended by:

**Anthea Sargeant**

Executive Director

Compliance, Industry and Key Sites

Karl Fetterplace  
Senior Planning Officer  
Key Sites Assessments



## 9. Determination

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

**The Hon. Rob Stokes**

NSW Minister for Planning and Public Spaces





# Appendices

## Appendix A – List of Documents

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

Environmental Impact Statement

<https://www.planningportal.nsw.gov.au/major-projects/project/10281>

Submissions

<https://www.planningportal.nsw.gov.au/major-projects/project/10281>

Applicant's Response to Submissions

<https://www.planningportal.nsw.gov.au/major-projects/project/10281>

Submissions on Response to Submissions

<https://www.planningportal.nsw.gov.au/major-projects/project/10281>

Revised Response to Submissions

<https://www.planningportal.nsw.gov.au/major-projects/project/10281>

Submissions on Revised Response to Submissions

<https://www.planningportal.nsw.gov.au/major-projects/project/10281>

Applicant's Supplementary Revised Response to Submissions

<https://www.planningportal.nsw.gov.au/major-projects/project/10281>

## Appendix B – Community Views for Draft Notice of Decision

Issue	Consideration
Heritage (Council issue)	<p><i>Assessment</i></p> <ul style="list-style-type: none"> <li>the works, on balance, have an acceptable heritage impact and will not have a net adverse impact on local, State or World Heritage values.</li> <li>The would facilitate the upgrading of a World Heritage listed building, providing cultural benefit and improving its acoustic, functional performance, and accessibility.</li> <li>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.</li> <li>The Department concludes the impacts of the development are acceptable and can be appropriately mitigated through the implementation of the recommended conditions of consent.</li> <li>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.</li> <li>These matters are further discussed in <b>Section 6.2</b>.</li> </ul> <p><i>Recommended Conditions/Response</i></p> <p>Conditions include:</p> <ul style="list-style-type: none"> <li>Requirements for archival photographic recording, use of skilled trades people and commissioning of a heritage consultant to monitor works.</li> <li>Updating the CMP to reflect the changes proposed and preparing a Heritage Interpretation Strategy.</li> <li>Requirement for further refinement of design elements through the application under Section 60 of the <i>Heritage Act 1977</i></li> </ul>
Development Contributions	<p><i>Assessment</i></p> <ul style="list-style-type: none"> <li>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.</li> <li>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.</li> <li>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.</li> <li>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"> <li>the SOH is run by the SOH Trust, a not-for-profit organisation, and is a significantly important cultural institution and public asset</li> <li>the refurbishment of the Concert Hall and new CLC would provide significant economic benefits to Sydney's local economy</li> <li>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</li> <li>it is in the public interest.</li> </ul> </li> <li>This matter is further discussed in <b>Section 6.3</b>.</li> </ul> <p><i>Recommended Conditions/Response</i></p> <ul style="list-style-type: none"> <li>No conditions recommended.</li> </ul>



## Appendix C – Statutory Considerations

In line with the requirements of section 4.15 of the EP&A Act, the Department's assessment of the project has provided a detailed consideration to a number of statutory requirements. These include:

- the objects found in section 1.3 of the EP&A Act
- the matters listed under section 4.15(1) of the EP&A Act, including applicable environmental planning instruments and regulations.

The Department has considered all of these matters in its assessment of the project and has provided a summary of this assessment in **Tables 1** and **2**.

**Table 1** | Consideration of objects of the EP&A Act

Objects of the EP&A Act	Summary
(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources	<p>The proposal promotes the social and economic welfare of the community through upgrading the acoustics, functionality and accessibility of a significant cultural asset and heritage item of World Heritage significance, whilst having an acceptable level of impact.</p> <p>The Creative Learning Centre (CLC) would provide social benefits through promoting the performing arts with younger generations.</p> <p>The proposed works would not result in an adverse impacts on natural or other resources.</p>
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment	<p>The principles of ecologically sustainable development are considered following <b>Table 2</b>.</p>
(c) to promote the orderly and economic use and development of land	<p>The proposal promotes the orderly and economic use of land through the upgrading of an existing World Heritage listed building and provision of a new CLC, to ensure its ongoing commercial viability and maximise its economic contribution to NSW. The merits of the proposal are considered in <b>Section 6</b> of this report.</p>
(d) to promote the delivery and maintenance of affordable housing	<p>The provision/maintenance of affordable housing is not relevant to the proposal.</p>
(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats	<p>The proposed development would not have an adverse impact on the natural environment.</p>
(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage)	<p>As noted, the proposal would facilitate the ongoing cultural benefit of a World Heritage listed item, without having adverse impacts.</p> <p>The Department consulted the Heritage Division, who raised no objection to the proposal, subject to conditions. Heritage issues are considered in detail in <b>Section 6.2</b>.</p> <p>The Department consulted EESG and considers the proposal would not have an adverse impact on Aboriginal cultural heritage.</p>
(g) to promote good design and amenity of the built environment	<p>The Department considers the proposal would exhibit good design quality and amenity. The proposed design and amenity impacts on the surrounding environment are considered in <b>Section 6</b>.</p>
(h) to promote the proper construction and maintenance of buildings,	<p>The proposal facilitates the maintenance of the building. Recommended conditions would ensure the proposed</p>

including the protection of the health and safety of their occupants	development would be constructed in compliance with all relevant building codes and health and safety requirements.
(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State	The proposal is SSD and therefore the Minister is the consent authority. The Department consulted with Council and relevant government agencies on the proposal.
(j) to provide increased opportunity for community participation in environmental planning and assessment.	<b>Section 5</b> of this report sets out details of the Department's engagement on the proposal.

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

Section 4.15(1) Evaluation	Summary
(a)(i) any environmental planning instrument	The proposed development complies with the relevant legislation, as addressed in <b>Section 4</b> of this report and the consideration of other relevant EPIs provided below.
(a)(ii) any proposed instrument	Considered in the section following this table.
(a)(iii) any development control plan	Under clause 11 of the SRD SEPP, development control plans (DCPs) do not apply to SSD. Notwithstanding, consideration has been given to the Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005 in the section following this table.
(a)(iia) any planning agreement	Not applicable.
(a)(iv) the regulations <i>Refer Division 8 of the EP&amp;A Regulation</i>	The application satisfactorily meets the relevant requirements of the Regulation, including clause 288, which requires the consent authority to consider the provisions of the SOH Management Plan. The procedures relating to applications (Part 6), fees (Part 15), public participation procedures for SSD and Schedule 2 of the EP&A Regulation relating to EISs have been satisfied.
(a)(v) any coastal zone management plan	Not applicable.
(b) the likely impacts of that development including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,	The Department has assessed the likely impacts of the development and considers they are acceptable and/or have been appropriately managed by recommended conditions (refer to <b>Section 6</b> and <b>Appendix D</b> of this report).
(c) the suitability of the site for the development	The site is suitable for the development as discussed in <b>Sections 4</b> and <b>6</b> of this report.
(d) any submissions	Consideration has been given to the submissions received during and after the EIS exhibition period and following lodgement of supplementary information. See <b>Sections 5</b> and <b>6</b> of this report.
(e) the public interest	The Department considers the proposal to be in the public interest as it would facilitate the upgrading of the acoustics, functionality and accessibility of a significant cultural asset and heritage item of World Heritage significance, whilst having an acceptable level of heritage impact.  The proposal would provide social and economic benefits by ensuring the SOH's ongoing commercial viability and maximising its economic contribution to NSW.  The CLC would promote the performing arts with younger generations.
Biodiversity values exempt if: (a) On biodiversity certified land (b) Biobanking Statement exists	Not applicable.



The likely impact of the proposed development on biodiversity values as assessed in the biodiversity development assessment report (Section 7.14 of the *Biodiversity Conservation Act 2016*)

The Department has consulted with EESG and considers the proposal would not have any adverse impact on biodiversity values. Following advice received from EESG, the Department issued a waiver for a Biodiversity Development Assessment Report under section 7.9(2) of the *Biodiversity Conservation Act 2016*.

### Ecologically Sustainable Development

The Act adopts the definition of ESD found in the *Protection of the Environment Administration Act 1991*. Section 1.3(b) of that Act states that ESD requires the effective integration of economic, environmental and social 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
- (d) improved valuation, pricing and incentive mechanisms.

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

- **Precautionary Principle** – the refurbishment of this building would not result in any serious or irreversible environmental damage.
- **Inter-Generational Equity** – the proposal would ensure the ongoing commercial viability of this World Heritage listed heritage item, maintaining its economic contribution to NSW and allowing for its continued enjoyment by future generations.
- **Biodiversity Principle** – the proposal would not have any adverse impacts on biodiversity.
- **Valuation Principle** – the proposal includes a number of measures to limit the ongoing cost, resource and energy requirements of the development. These include improvements to lighting, air conditioning and minimising of demolition waste.

### ENVIRONMENTAL PLANNING INSTRUMENTS

Controls considered as part of the assessment of the proposal are:

- State Environmental Planning Policy (State & Regional Development) 2011 (SRD SEPP)
- State Environmental Planning Policy (State Significant Precincts) 2005 (SSP SEPP)
- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)
- Draft Remediation of Land State Environmental Planning Policy (draft Remediation SEPP)
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (SHC SREP)
- Draft Environment State Environmental Planning Policy (draft Environment SEPP)
- State Environmental Planning Policy (Coastal Management) 2018 (Coastal SEPP)
- Sydney Local Environmental Plan LEP 2012 (SLEP 2012)
- Other Plans and Policies:
  - Sydney Harbour Foreshores and Waterways Area DCP 2005.

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

The SRD SEPP aims to identify development that is of State significance due to its size, economic value or potential impact. The proposed development constitutes State significant development under clause 1 of Schedule 2 of the SRD SEPP as it is development on land within the Sydney Opera House site.

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

The SSP SEPP seeks to facilitate the development, redevelopment or protection of important urban, coastal and regional sites of economic, environmental or social significance to the State (State Significant Precincts) for the benefit of the State.

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 the upgrading of the Concert Hall and provision of a new CLC, which do not fall within the exempt development provisions, the proposal therefore requires development consent.

The Department's assessment concludes the proposed works will result in an acceptable level of heritage impact 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 ensure that potential contamination issues are considered in the determination of a development application. SEPP 55 requires the consent authority to consider whether the land is contaminated, and if so, whether the land is suitable for the purpose for the proposed development.

No contamination issues have been identified and no remediation works are proposed as part of the application. The 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. The Department therefore concludes the proposal is consistent with the requirements of SEPP 55.

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

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

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

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

The SHC SREP provides planning principles for development within the Sydney Harbour catchment. The site is located within the Sydney Harbour Catchment area, is in the foreshores and waterways area and is also defined as a Strategic Foreshore Site (Sheet 1 of the City Foreshore Area Map).

#### Aims of the plan

The proposed modification is consistent with the aims of the plan as it would:

- not adversely affect the catchment, foreshores and waterways of Sydney Harbour
- not have adverse environmental impacts, subject to the Department's recommended conditions
- improve the existing commercial use of the site and contribute to the culture and vibrancy of the area.

#### Matters for consideration

The proposed modification is consistent with the relevant matters for consideration for land within the foreshores and waterways area as it would not:

- have any adverse impacts on the biodiversity or ecology of the area
- impact on public access, and use of, the foreshore
- reduce the capacity of Sydney Harbour to function as a working harbour



- have adverse impacts on the use of the waterways
- detract from the scenic quality of the foreshore and waterway, or views to and from Sydney Harbour.

### *Foreshores and Waterways Planning and Development Advisory Committee*

Under clause 29(3) of the SHC SREP, the Department is not required to refer the proposal to the Foreshores and Waterways Planning and Development Advisory Committee, as the proposed works consists of alterations or additions to the existing SOH building.

### *Strategic Foreshore Sites*

The site is identified as a 'Strategic Foreshore Site' on 'Sheet 1 - City Foreshores Area' of the Strategic Foreshore Sites Map. Clause 41 of the SHC SREP states that development consent must not be granted for the carrying out of development on a strategic foreshore site unless there is a master plan for the site, and the consent authority has taken the master plan into consideration. The Department considers that the proposal is generally consistent with the relevant land use and general master planning provisions contained within SOH Management Plan, the CMP and the Utzon Design Principles as identified in **Section 4** of this report.

### *Heritage provisions*

The Department has considered the proposal in relation to heritage impacts in accordance with Part 5 of the SHC SREP, and finds the proposal would not have unacceptable impacts in relation to any items of environmental heritage in the locality.

The site is located within the Sydney Opera House Buffer Zone. Clause 58B of the SHC SREP outlines the matters to be taken into consideration for development within the Sydney Opera House Buffer Zone to protect the World Heritage Values of the site. The proposal largely comprises internal building works and would not result in any significant impacts on external views of the SOH. Heritage is further discussed in **Section 6.2** of this report.

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

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

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

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

### *Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005*

The Sydney Harbour Foreshore and Waterways Area Development Control Plan (the DCP) complements the SHC SREP and provides more detailed design parameters for development within the foreshore area of Sydney Harbour.

The site is within the defined Foreshores and Waterways Area under the SHC SREP and is therefore subject to the controls in the DCP. The DCP includes aims and performance criteria in relation to ecological assessment, landscape assessment, and design guidelines for development within the area.

The site is identified as a landmark on Map 11 of the Ecological Communities and Landscape Characters, and whilst the site does not contain any terrestrial or aquatic ecological communities, the Map indicates the site adjoins grassland and woodland terrestrial ecological communities within the Royal Botanic Gardens. The Department is

satisfied that the proposal would not result in any impacts to these adjoining terrestrial ecological communities, given the proposal largely comprises internal building works to the SOH. The proposal is therefore consistent with these criteria.

Under Parts 2 and 3 of the DCP, the site is identified as a landmark on Map 11 of the Ecological Communities and Landscape Characters, and the Map indicates that the site adjoins landscape character area No. 9, which applies to the natural foreshores of Sydney Harbour. The proposal is consistent with the performance criteria for this landscape character area because it would not impact on any natural features of the foreshore including vegetation and rock outcrops, or impact on any major points and entrances to the harbour.

The Department notes that the proposal largely comprises internal building works to the SOH, and that public access along the foreshore would be maintained. Accordingly, the Department is satisfied that the proposal is consistent with relevant provisions the DCP regarding the interface between land-based development and the water.

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

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

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

The Coastal SEPP identifies the site as being located within the Coastal environment area and Coastal use area. Land within these areas are subject to clause 13 and 14, however as the site is located on land within the Foreshores and Waterways Area of the SHC SREP, clauses 13 and 14 of the Coastal SEPP do not apply.

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

Consideration of the relevant provisions of the SLEP 2012 is provided below:

#### Zoning

Under the SLEP 2012, the site is zoned B8 Metropolitan Centre. The objective of the zone is to recognise and provide business, office, retail, entertainment and tourist premises.

As the proposed works relate to development for the purposes of an entertainment facility, they are permissible with consent in the B8 Metropolitan Zone.

#### Heritage

Clause 5.10 of SLEP 2012 relates to heritage conservation, and includes an objective to conserve the heritage significance of heritage items, including associated fabric, settings and views.

The Department is satisfied the proposal is consistent with relevant provisions in clause 5.10 of SLEP 2012, and has assessed the heritage impacts of the proposal in **Section 6.2** of this report. The Department's assessment concludes the proposal would have an acceptable level of heritage impact on the SOH and would continue to comply with the relevant provisions of the SOH Management Plan, the CMP and the Utzon Design Principles.

#### Design Excellence

Clause 6.21 of SLEP 2012 relates to design excellence and states development consent must not be granted to development unless, in the opinion of the consent authority, the proposed development exhibits design excellence. In considering whether development to which this clause applies exhibits design excellence, the Department must have regard to a range of matters in clause 6.21(4).



The Department notes the proposed works are largely internal building works and is satisfied the design, materials and finishes of the proposed works are of a high standard and have been approved by the SOH Design Advisory Panel, Conservation Council and Heritage Architect.

Clause 6.21(5) of SLEP 2012 also states that consent cannot be granted for certain development unless a competitive design process has been held. However, under clause 6.21(6), a competitive design process is not required if the consent authority is satisfied that the proposal only involves alterations and additions to an existing building, and does not significantly alter any aspect of the building when viewed from public places.

As the proposal the proposal involves alterations and additions to the existing SOH building, and would not significantly alter any aspect of the building when viewed from surrounding public places, it is considered that a competitive design process is unreasonable and unnecessary in this instance.

#### ***Foreshore Access***

Clause 7.11 of SLEP 2012 relates to foreshore access, and requires consideration of whether development would encourage public access along the foreshore and links with existing and proposed open space.

The Department is satisfied that the proposal would retain continuous public access along the foreshore and to the Royal Botanic Gardens.

## **Appendix D – Recommended Instrument of Consent**

The recommended conditions of consent for SSD 8663 can be found on the Department of Planning, Industry and Environment's website at:

<https://www.planningportal.nsw.gov.au/major-projects/project/10281>



## Appendix E – Heritage Division Advice

A copy of the Heritage Division's advice on the EIS, Rts and RRTS can be found on the Department's website at the link below:

<https://www.planningportal.nsw.gov.au/major-projects/project/10281>

## Appendix F – Recommended Conditions of Consent Regarding Matters of National and World Heritage Significance

### REQUIREMENTS FOR SECTION 60 APPROVAL UNDER HERITAGE ACT 1977

- A25 Within 12 months of the commencement of the works, the Applicant shall submit to the Department a new Interpretation Strategy for the works approved as part of this consent. The Interpretation Strategy shall be prepared in consultation with the nominated heritage consultant (**condition B24**) and Heritage Council (or delegate), and shall address the areas to be modified by the proposed works and the alterations that have occurred.

A copy must be submitted to the Secretary and Certifying Authority. The works outlined in the Heritage Interpretation Strategy must be completed within one year of the completion of works.

- B17 Prior to the commencement of any works, an application under section 60 of the *Heritage Act 1977* must be submitted to and approved by the Heritage Council of NSW or its delegate.

- B18 As part of the Section 60 application under the *Heritage Act 1977*, the Applicant is to further resolve the design of the following:

- (a) the final finishes for the passageway and south wall of the Caves area;
- (b) northern foyer lift, including the detail of the extension of the two cranked beams connecting to the new lift;
- (c) handrails and the 'kit of parts';
- (d) the final colour and design of the over-stage reflectors, to be prototyped in situ in the Concert Hall and approved by the Opera House's Conservation Council, Design Advisory Panel, and heritage architect;
- (e) clarification of the extent of removal of box fronts including the rear wall of side boxes, rear wall of stalls and upper and lower circles to understand whether samples of 1973 box fronts can be retained in situ and if new panels can overlay original materials and forms, and clarification of the final detail design of the laminated brushbox panels;
- (f) clarification on the extent of the original bronze guard rail proposed to be removed to make way for accessible seating and retention of this, where possible;
- (g) details of the construction methodology for the sidewall reflector panels and acoustic drape mechanisms;
- (h) details of the final speaker system;
- (i) air conditioning cannon port openings, including a full-sized mock-up to be assembled before these works commence;
- (j) details of the penetrations in the Concert Hall ceiling;
- (k) reconfiguration of the side foyers;
- (l) final finishes to be used in the anteroom and orchestra assembly room;
- (m) the Creative Learning Centre ramp and doors at the entry from the western broadwalk;
- (n) concrete finishes throughout the various areas of the proposal, subject to the endorsement of the Heritage Architect, in consultation with the Design Advisory Panel (DAP), Conservation Council (CC) and Heritage Council delegate;
- (o) significance assessments of equipment proposed to be removed to determine what pieces will be retained in the Sydney Opera House's collections;



- (p) fixtures and fittings in dressing room facilities to determine retention, reuse and incorporation of significant elements into new areas.
- B19 A copy of the Heritage Council's approval and additional information required above must be submitted to the Planning Secretary and Council for information.

## HERITAGE

- B24 Prior to the commencement of works, a suitably qualified and experienced heritage consultant must be nominated for this project. The nominated heritage consultant must inspect the demolition and removal of material to ensure there is no unapproved removal of significant fabric or elements, provide input into the detailed design, provide heritage information to be imparted to all tradespeople during site inductions, and oversee the works to minimise impacts to heritage values. The nominated heritage consultant must be satisfied that all work has been carried out in accordance with the conditions of this consent.
- B25 Evidence and details of the engagement of a nominated heritage consultant in accordance with **condition B24** shall be submitted to the Planning Secretary and Council, prior to the certification of Crown Building Works.

## ARCHIVAL RECORDING

- B29 Prior to the certification of Crown Building Works, a photographic archival record of all areas undergoing works, including the removal of theatre machinery equipment, air conditioning cannon port openings and plant, and existing acoustic reflectors, and identification of any significant pieces for interpretation, must be prepared in accordance with the document *How to Prepare Archival Records* by the Heritage Council of NSW, and submitted to the Heritage Council and the Department.

## SALVAGE OF SIGNIFICANT BUILDING FABRIC

- C16 Significant building fabric and elements approved to be removed are to be carefully removed, catalogued, safely stored and able to be readily reinstated.

## RE-USE OF EXISTING SEATING

- C17 To avoid unnecessary wastage, as much of the removed seating as possible is to be used in the new position.

## NOMINATED HERITAGE CONSULTANT

- C38 The Nominated Heritage Consultant is to regularly inspect the site and provide ongoing advice to the contractor representative undertaking the works for the duration of construction to ensure that there is no unapproved removal of elements, significant fabric is not damaged and that all work is being carried out in accordance with the conditions of this consent.

## NOMINATED HERITAGE CONSULTANT

- D4 Prior to occupation or commencement of use, the Applicant shall provide a report to the Planning Secretary and the Heritage Council prepared by the Nominated Heritage Consultant certifying all heritage works have been carried out in accordance with the relevant terms of this consent outlined in **condition A2**.

## CONSERVATION MANAGEMENT PLAN

- E7 Within one year from the completion of works, the Applicant shall submit to the Heritage Council for approval an updated Conservation Management Plan for the Opera House, which is to address, inter alia, the "at rest" mode developed for the Concert Hall. A copy shall be provided to the Planning Secretary.

