

Modification Report

Section 4.55(IA)

SSD-9794 Mod I



Sydney Opera House Lower Concourse
Prepared for Sydney Opera House Trust

Submitted to the DPHI

February 2026

Declaration

Project details	
Project Name	Sydney Opera House Lower Concourse
SSD number	SSD-9794-Mod-1
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Applicant details	
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The undersigned declares that this EIS:	
<ul style="list-style-type: none">• has been prepared in accordance with sections 99 and 100 of the <i>Environmental Planning and Assessment Regulation 2021</i>;• contains all available information relevant to the environmental assessment of the development, activity or infrastructure to which the EIS relates;• does not contain information that is false or misleading;• addresses the Planning Secretary's environmental assessment requirements (SEARs) for the project;• identifies and addresses the relevant statutory requirements for the project, including any relevant matters for consideration in environmental planning instruments;• has been prepared having regard to the Department's <i>State Significant Development Guidelines - Preparing an Environmental Impact Statement</i>;• contains a simple and easy to understand summary of the project as a whole, having regard to the economic, environmental and social impacts of the project and the principles of ecologically sustainable development;• contains a consolidated description of the project in a single chapter of the EIS;• contains an accurate summary of the findings of any community engagement; and• contains an accurate summary of the detailed technical assessment of the impacts of the project as a whole	
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Cover image: The Sydney Opera House Lower Concourse, Bennelong Point (Source: Applejack Hospitality)

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List of Abbreviations

DPHI	Department of Planning, Housing and Infrastructure
EIS	Environmental Impact Statement
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2021</i>
EPI	Environmental Planning Instrument
LGA	Local Government Area
SEPP	State Environmental Planning Policy
SSD	State Significant Development
HIS	Heritage Impact Statement
REP	Regional Environmental Plan
LEP	Local Environmental Plan
SOH	Sydney Opera House

1 Introduction

This Modification Report has been prepared by *Keylan Consulting Pty Ltd* (Keylan) on behalf of *Sydney Opera House Trust* (SOHT) in support of an application to modify the State Significant Development (SSD) development consent for 'Minor works and uses at the Lower Concourse of the Sydney Opera House' (SSD-9794), under Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

This application is the first modification sought to SSD-9794, which was approved by the then NSW Department of Planning, Industry and Environment (DPIE) on 8 May 2020. SSD-9794 was approved for:

Minor works and uses at the Lower Concourse of the Sydney Opera House, including:

- *extension and re-alignment of the glazing line of the Opera Bar*
- *replacement of shade structures*
- *refurbishment of back-of-house areas*
- *consolidation of all Lower Concourse uses, including the restaurant and bar areas trading as Opera Bar, Opera Kitchen, and the Visitor Information and Interpretation Centre.*

A copy of development consent SSD-9794 is provided at Appendix 1.

The leased area subject to this Modification includes two outlets, one known as the Lower Concourse Bar (Venue 1) and one known as the Lower Concourse Eatery (Venue 2), with associated outdoor seating areas for both venues. The southern outlet is the Lower Concourse Bar, and the northern outlet is the Lower Concourse Eatery.

Applejack Hospitality currently operates the lease area on the Lower Concourse. The proposed modification involves the reconfiguration of the Lower Concourse Bar (previously known as 'Opera Bar'), the Lower Concourse Eatery (previously known as 'Opera Kitchen') and more recently known as 'House Canteen', and replacement of an external bar.

These proposed modifications will not result in any increased environmental impacts, and the overall scope of SSD-9794 is maintained. The proposed minor amendments result in a development that is substantially the same as the original application. The modification is required to respond to conditions imposed on the original consent, along with optimising the accessibility, operation and overall use of the Lower Concourse area.

The proposed modifications were presented to the Sydney Opera House Design Advisory Panel on 8 December 2025. The panel responded positively to the proposed designs. Some minor design amendments were requested, which have been incorporated into the updated plans.

This report should be read in conjunction with the following documents:

- Original Development Consent SSD-9794
- Stamped Plans by H&E Architects dated 8 May 2020
- Modification Architectural Plans by Luchetti Krelle (LK) dated 3 February 2026.

- Heritage Impact Statement by Design 5 Architects dated 31 March 2025
- Heritage Impact Statement by Design 5 Architects dated 13 February 2026

This modification report concludes that the proposed amendments should be supported as they:

- are substantially the same development as approved under SSD-9794
- are responsive to conditions B33 and E11 imposed on the original consent
- enhance the accessibility and operation of the Lower Concourse
- do not result in any increased environmental impacts

Based on the discussion within this report, the proposed modifications are considered to be justified. Accordingly, we recommend that the proposed modification be approved.

2 Background of the Lower Concourse and its associated uses

The Lower Concourse (also known as Lower Forecourt) was part of the NSW Government's Bicentennial project for the Forecourt and was completed in 1988. It was designed by the NSW Government Architects Office under Andrew Andersons and in associate with Peter Hall, the original architect for the Stage III completion of the Opera House. The Lower Concourse was intended to provide undercover access from the main southern entry to the site, as well as ancillary visitor services including food, beverage and retail in a manner which respected and enabled the uncluttered and open qualities of the Forecourt above.

Apart from providing undercover access, the food and beverage outlets and their associated outdoor seating areas are major drawcards for tourists and residents alike and are destinations in themselves for patrons to enjoy experiencing the Sydney Opera House from the water's edge.

The lease for the food and beverage uses in the Lower Concourse are periodically retendered and when this lease came up for renewal in 2025, the successful tenderer was Applejack Hospitality Services Pty Ltd. The lease includes two food and beverage outlets, the main southern outlet, Lower Concourse Bar, and a smaller northern outlet, the Lower Concourse Eatery.

3 The site

The subject site is located at Bennelong Point, Sydney. The legal description of the site is Lot 5 in DP 775888 and Lot 4 in DP 787933. The site is zoned SP5 Metropolitan Centre under the *Sydney Local Environmental Plan (SLEP) 2012*.

The Sydney Opera House site at Bennelong Point is part of a World Heritage Item (No. 11867). The specific portion of the site which is subject to this modification application is the Lower Concourse, which is located to the south-west of the Opera House and adjacent to the eastern side of Circular Quay. The Lower Concourse contains the Lower Concourse Bar, Lower Concourse Eatery, Welcome Centre and the Sea Wall Promenade.

The Lower Concourse is one of the publicly accessible pedestrian areas surrounding the Opera House and is accessed from the western side of the primary Forecourt area of the site. The Lower Concourse area is an undercroft area in nature, with back-of-house facilities, public amenities, covered and uncovered outdoor seating, and food and drink premises present across the footprint. There is no vegetation on the Lower Concourse site.

The location of the site is shown in the figure below.

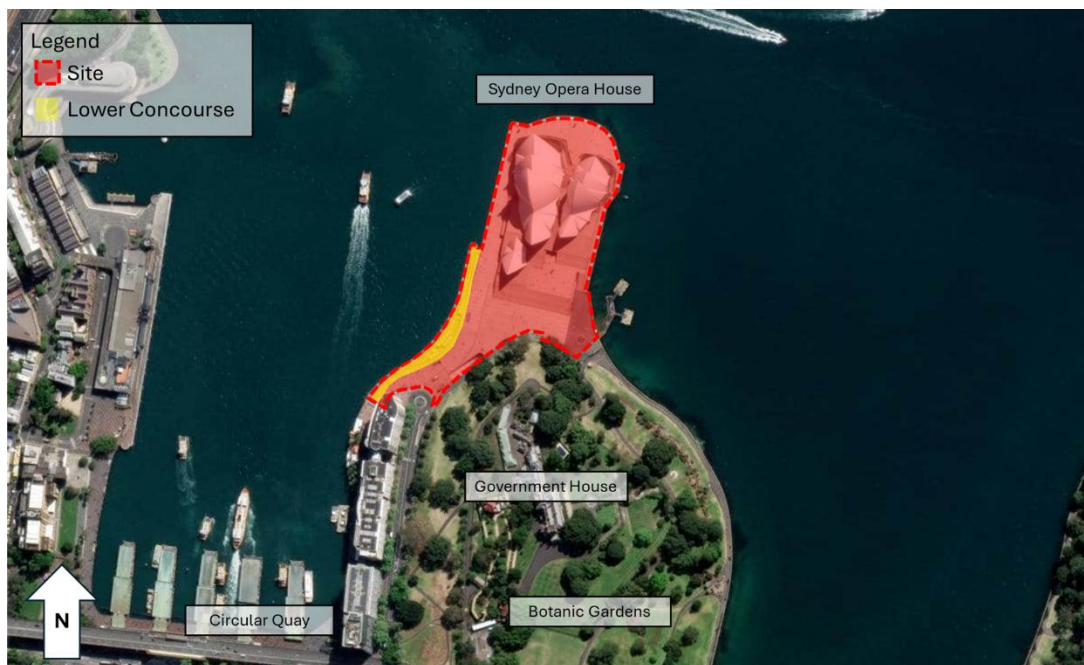


Figure 1: Location of Lower Concourse area within the site (Base source: Nearmap)

3.1 Surrounding locality

The locality surrounding the Lower Concourse is characterised by a variety of uses, including residential, transport hubs, public recreation areas and heritage items as described below:

- North: To the northeast of the Lower Concourse structure is the primary Sydney Opera House structure. To the direct north and northwest of the Lower Concourse is Sydney Cove.
- East: To the direct east of the Lower Concourse is the primary Opera House forecourt area, which provides pedestrian access to the Lower Concourse and primary Sydney Opera House structure. Further east is the Royal Botanic Gardens, which are a nationally significant heritage site zoned RE1 Public Recreation pursuant to the SLEP. To the east and travelling southeast is “Tarpeian Way”, which is an item of State heritage significance (item I1860).
- South: To the direct south of the Lower Concourse site is a row of mixed-use development with shop-top housing. The land to the south containing the mixed-use developments is also zoned SP5 Metropolitan Centre, containing multiple shop uses including food and drink premises, retail premises, business premises and entertainment facilities. To the southeast is an area of nationally significant heritage value, which is known as the Governors Domain and Civic Precinct. The nearest structure within this precinct is Government House, which is bounded by the Royal Botanic Gardens. To the southwest is the Circular Quay transport hub, which presents multiple wharves for ferry travel and the Circular Quay Railway Station, which is also known as State heritage item no. I1660.
- West: To the direct west of the Lower Concourse is Sydney Cove. Across Sydney Cove is the Overseas Passenger Cruise Terminal, which is approximately 260m to the west. Further west is the Sydney Harbour Bridge, which is approximately 520m away.

There are local heritage items located nearby the site as set out by the *Sydney Local Environmental Plan 2012* (SLEP 2012). The site itself is a World Heritage Item (UNESCO), along with being listed on the National Heritage Register with surrounding sites including the Opera House Gate, Royal Botanic Gardens and Government House. The site is also listed in the State Heritage Register as Listing No. 01685. The closest adjacent heritage item is the cast iron railings to the south, which are a local heritage item (I1710) listed within Schedule 5 of the SLEP 2012. These are adjacent to the pedestrian access to the Lower Concourse. There are multiple State and local heritage items surrounding the site, which are detailed in the figure below.



Figure 2: Location of surrounding heritage items (Base source: Nearmap)

4 Strategic Context

The strategic context as relevant to the development has not substantially changed since SSD-9794 was approved by the then DPIE on 8 May 2020. The strategic context was addressed as part of the EIS submitted within SS-9794, and DPIE's subsequent assessment determined the proposal had strategic merit.

The project including the proposed modification remains consistent with the following strategic planning documents:

- NSW 2021
- Premier's Priorities
- State Infrastructure Strategy
- NSW Future Transport Strategy 2056
- Better Placed
- Greater Sydney Region Plan
- Draft The Sydney Plan
- Eastern City District Plan
- Sustainable Sydney 2030
- Sydney's Cycling Future
- Sydney's Walking Future
- Sydney Opera House Plans and Policies

In summary, the proposal is of a minor nature and without any significant environmental impacts. Furthermore, as it does not seek to change the approved use of the site, only specific building element layouts and design, this modification will not affect the development's consistency with the project's strategic context.

5 Description of the modifications

The proposed modification application seeks approval for minor alterations to external and semi-external elements as listed below and shown in the modification plans at Appendix 2:

- Remove Lower Concourse Eatery external bar to comply with the approved Lower Concourse Operational Area Report, dated 12 February 2021, which recommended that the outdoor bar at Lower Concourse Eatery was removed to improve pedestrian access. This report is included at Appendix 6.
- New granite clad walls to align with original sweep and relocated access WC.
- Flooring associated with new granite clad wall to align with original sweep.
- Replacement existing granite clad outdoor bar.

The original application SSD-9794 obtained approval for external works, primarily to the Lower Concourse Bar glazing line and the replacement of existing shade structures. This modification application includes all external and semi-external elements proposed to be altered. The primary external works of the original SSD application remain unaltered, including the realignment of the glazing line in the Lower Concourse Bar, along with no changes proposed to the approved shade structure designs under SSD-9794.

Condition E11 of the original consent relates to the proposed removal of the canteen island bar. The condition reads as follows:

- **Condition E11 – Public Walkways**

The Applicant must conduct a review of the operational areas (including loose furniture and other infrastructure), including along the sea wall and main restaurant/bar areas, and revise this to minimise encroachments onto public walkways and improve access through the Lower Concourse. A report shall be produced, and a copy submitted to the Certifier, Planning Secretary, Council and Heritage NSW within six months of the date of this consent.

The removal of the existing outdoor canteen island bar is proposed to respond to the requirements of the above condition. The Lower Concourse Operational Area Report dated 12 February 2021, which was submitted to Group DLA (Principal Certifier), the Planning Secretary, Council and Heritage NSW, details the response to this condition. This report is included at Appendix 6.

5.1 Exempt development

The following alterations are shown on the plans and will be undertaken as exempt development in accordance with Appendix 1, Part 2 of the *State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021* (Eastern Harbour City SEPP):

- Replace existing servery, back of house kitchen, back of house store and bar.
- Remove existing access WC and provide replacement access WC to ensure compliance with condition B32 of SSD-9974

The works indicated as exempt development on the plans are included to show the overall scope of the alterations proposed for the Lower Concourse. Any works labelled as exempt development on the plans are not included in the scope of the modification.

Further, works relating to the relocation of access WCs respond to the following condition of the original consent:

- **Condition B32 – Access for People with Disabilities**

Access and facilities for people with disabilities must be designed in accordance with the BCA. Prior to the commencement of works, a certificate certifying compliance with this condition from an appropriately qualified person must be provided to the Certifier.

In complying with Condition B32, changes are proposed to the provision and location of access WCs in the Lower Concourse. These works are exempt development as set out above. Circulation in the current northern access WC is impeded by a mushroom column and therefore the northern WC is required to be moved. The access WCs provide facilities for people with disabilities and are designed in accordance with the BCA.

5.2 Detailed description

Project Description

It is proposed that the project description be updated as follows (changes shown in underlined text):

Minor works and uses at the Lower Concourse of the Sydney Opera House, including:

- *extension and re-alignment of the glazing line of the Lower Concourse Bar*
- *replacement of shade structures*
- *consolidation of all Lower Concourse uses, including the Lower Concourse Bar, Eatery and the Welcome Centre*
- *new clad walls, tiling and finishes to accommodate minor alterations.*
- *minor external alterations, including the demolition of external island bar, alterations to existing external bar, and minor changes to the eatery façade.*

As a result of the proposed modification, condition of consent A2 of SSD-9794 is required to be amended. Accordingly, the rewording of the relevant condition is provided below.

Condition A2

It is recommended that the table in Condition A2 be amended to include updated plans as follows:

Architectural Drawing prepared by Humphreys & Edwards Architects and Luchetti Krelle (LK)			
Drawing No.	Revision	Name of Plan	Date
DA.000	F	Cover Page	03/02/2026
DA.020	E	Existing & Demolition Plan - Site	03/02/2026
DA.021	F	Proposed Plan – Site	12/01/2026
49HE001-1103	E	General Arrangement Plan – Upper Concourse – Proposed	30/07/2019
49HE001-3100	E	General Arrangement Elevation	30/07/2019
DA.100	E	Existing and Demolition Plan – Lower Concourse – Opera Bar	03/02/2026
DA.101	E	Proposed Plan – Lower Concourse – Venue 1 - Opera Bar	03/02/2026
DA.102	C	Sectional Elevations – Lower Concourse – Venue 1 – Opera Bar	12/01/2026
DA.103	C	Sectional Elevations – Lower Concourse – Venue 1 – Opera Bar	12/01/2026
DA.104	C	Perspectives – Lower Concourse – Venue 1 – Opera Bar	12/01/2026

Architectural Drawing prepared by Humphreys & Edwards Architects and Luchetti Krelle (LK)			
Drawing No.	Revision	Name of Plan	Date
DA.130	D	Existing & Demolition Plan – Lower Concourse – Venue 2 – Eatery	12/01/2026
DA.131	D	Proposed Plan – Lower Concourse – Venue 2 - Eatery	12/01/2026
DA.132	D	Sectional Elevations – Lower Concourse – Venue 2 – Eatery	12/01/2026
49HE001-3220	E	Detail Plan - Shade Structure	30/07/2019
49HE001-3221	E	Shade Structure – Reflected Ceiling Plan	30/07/2019
49HE001-3225	D	Detail Section – Shade Structure	26/06/2019
49HE001-3230	C	Detail Elevation – Shade Structure	26/06/2019
49HE001-3231	C	Detail Section– Shade Structure Services	26/06/2019
DA.135	C	Proposed Plan – DDA Amenity	03/02/2026

5.3 Substantially the same development

The proposed modifications are substantially the same as the works approved by SSD-9794. The modifications are minor in nature, with no additional bulk, scale or intensity proposed and no change to the approved use.

The proposed external alterations include the removal of the eatery island bar, which is occurring as a result of the approved report which was prepared under condition E11 imposed on the original consent.

The modified proposal, involving minor external and semi-external alterations, is considered to fit the description of a 4.55(1A) modification (refer also to Section 6.2.1). The proposed alterations do not seek any changes to the primary visible external elements approved under the original consent, which are the shade structures. These shade structures are proposed to remain consistent with the design approved under the original consent. The HIS at Appendix 5 supports the no or minimal environmental impacts of the proposed modification.

Overall, the description of the development will require only minor adjustments, as detailed in Appendix 3. This reflects the minor nature of the proposed modification.

The uses and character of the Lower Concourse as approved are retained by this modification, with no extension of the approved areas proposed. Changes proposed reflect naming conventions for the Lower Concourse venues and will not increase the intensity of the existing consolidated uses but rather will enhance pedestrian accessibility, use and flow.

6 Statutory Context

The relevant statutory requirements for assessing the proposed modification are provided below. A detailed statutory compliance table is provided at Appendix 4 of this report.

6.1 Statutory requirements

The Department of Planning and Environment's *State Significant Development Guidelines* prescribe statutory requirements for the modification of the approved development as detailed below.

Matter	Requirement	Consistency
Power to grant approval	Under Section 1 of Schedule 2 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> (Planning Systems SEPP), all development is deemed State significant development when: <i>on land identified as being within the Sydney Opera House Site on the State Significant Development Sites Map.</i>	This modification application is consistent with the provisions of the Planning Systems SEPP. The proposed external and semi-external alterations remain appropriately categorised as SSD as they are within the Sydney Opera House site. The external and semi-external works do not qualify for works permitted under the exempt development framework under the Eastern Harbour City SEPP.
Permissibility	The site is zoned SP5 Metropolitan Centre under the SLEP 2012.	The proposed modification maintains the approved uses at the site. These uses are permissible with consent in the SP5 zone. The uses under the modification therefore remain permissible at the site.
Other approvals	Section 65A approval under <i>Heritage Act 1977</i> for modification of an existing approval.	A concurrent Section 60 <i>Heritage Act 1977</i> approval accompanied the original consent. A separate approval will be sought pursuant to Section 65A of the <i>Heritage Act 1977</i> for the proposed modifications.
Mandatory matters for consideration	EP&A Act: <ul style="list-style-type: none"> Section 1.3 Relevant objects of Act Section 2.22 Mandatory requirements for community participation Section 4.15 Matters for consideration Section 4.55(1A) Modifications involving no or minimal environmental impact 	The relevant mandatory matters for consideration have been considered in Appendix 4.

Matter	Requirement	Consistency
	<ul style="list-style-type: none"> Section 4.55(3) Section 4.15(1) considerations. Eastern Harbour City SEPP: <ul style="list-style-type: none"> Appendix 1 Part 1 	

Table 1: Statutory requirements for the modification application

6.2 Environmental Planning and Assessment Act 1979

The EP&A Act sets out the statutory planning framework for NSW. The Act aims to promote the orderly and economic use and development of land, facilitate ecologically sustainable development and integrate economic, environmental and social considerations as part of the decision-making processes for environmental planning and assessment matters.

6.2.1 Section 4.55(1A) of the EP&A Act

The provisions under Section 4.55(1A) of the EP&A Act are required to be considered by the consent authority in determining a modification application. Section 4.55(1A) of the EP&A Act states:

(1A) Modifications involving no or minimal environmental impact

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

Section 4.55(1A) Provision	Response
(a) <i>it is satisfied that the proposed modification is of no or minimal environmental impact, and</i>	<p>The proposed modification is considered to be of minimal environmental impact for the following reasons:</p> <ul style="list-style-type: none">• The overall use, scale and footprint of the development is consistent with the approved SSD-9794 development. No additions to the Lower Concourse building footprint or scale are proposed.• Pedestrian flows are enhanced through the removal of the canteen island bar, allowing for a clearer pathway through the Lower Concourse walkway.• No additional visual impacts will arise, with an overall minor extent of external change. The Lower Concourse Bar glazing line is to remain as approved by SSD9794, along with the shade structures being consistent with the original approval. These works have not been completed.• The removal of the canteen island bar results in improved visual impact and accessibility for pedestrians travelling through the Lower Concourse.• There will be no increased noise impacts on surrounding areas, as no increase in intensity of the existing uses is proposed as part of this modification application.• The modifications will not have any additional impacts in relation to Aboriginal cultural heritage or biodiversity, noting the elements of

Section 4.55(1A) Provision	Response
	<p>the development to be modified are sited away from any Aboriginal cultural heritage site or areas of biodiversity value.</p> <ul style="list-style-type: none"> The proposal seeks no changes to the approved uses nor any additional uses.
<p>(b) <i>it is satisfied that the development to which the consent as modified relates is the same or substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and</i></p>	<p>This modification is substantially the same developed as originally approved. The proposed alterations enhance the accessibility and operation of the Lower Concourse, while also responding to conditions of the original consent.</p> <p>There are no additional structures or uses that would be inconsistent with the overall scope of the SSD-9794 works, which were approved for minor works and consolidation of the existing uses on the Lower Concourse.</p> <p>The proposed modification does not seek to change the approved uses, the land to which the application relates or introduce any new elements that result in any additional environmental impact. The modification is for minor changes to the approved development.</p> <p>On this basis, the proposed modification is considered substantially the same as the approved development.</p>
<p>(c) <i>it has notified the application in accordance with -</i></p> <ol style="list-style-type: none"> <i>the regulations, if the regulations so require, or</i> <i>a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and</i> 	<p>DPHI will notify the application as required.</p>
<p>(d) <i>it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.</i></p>	<p>Submissions will be considered if received.</p>

Table 2: Response to section 4.55(1A) Provisions

6.2.2 Section 4.55(3) of the EP&A Act

Section 4.55(3) of the EP&A Act states:

In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.

The following section of the report provides an assessment against the environmental planning instruments relevant to the development. The section also includes discussion and evaluation of the key issues and matters for consideration under section 4.15(1) of the EP&A Act.

6.2.3 Section 4.15(1)(a) Planning Instruments

This section provides an assessment against section 4.15(1) of the EP&A Act.

Relevant Provision	Comment
(a) <i>the provisions of:</i>	
(i) <i>any environmental planning instrument, and</i>	<p>The original EIS for SSD-9794 provided an assessment of the development against the relevant planning instruments.</p> <p>The proposed modification will not alter the approved development's compliance with the relevant environmental planning instruments (EPIs).</p> <p>The relevant EPIs are addressed at Section 6.3 and Appendix 4.</p>
(ii) <i>any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and</i>	There are no relevant proposed EPIs.
(iii) <i>any development control plan, and</i>	No Development Control Plan (DCP) applies to the modification.
(iiia) <i>any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and</i>	There is no relevant planning agreement or draft planning agreement.

Relevant Provision	Comment
<i>(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),</i>	There are no known matters prescribed by the regulations that would hinder the proposed modification.
<i>(v) (Repealed)</i>	N/A
<i>(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,</i>	The request to modify the conditions of consent will not result in any adverse environmental impacts as discussed in Section 8.
<i>(c) the suitability of the site for the development,</i>	The site has been deemed suitable for the development under the approved SSD-9794. The modification application involves minor changes to the approved development. These changes do not impact on site suitability.
<i>(d) any submissions made in accordance with this Act or the regulations,</i>	Any submissions made will be considered accordingly.
<i>(e) the public interest.</i>	The original SSD application addressed the public interest. Given the minor amendments proposed by this modification, the proposal remains within the public interest.

Table 3: Section 4.15(1) Assessment

6.3 Other statutory instruments

The relevant statutory requirements that relate to the development, including EPIs and other planning and environmental policies, were addressed in the original EIS for SSD-9794. The proposed modifications are minor in nature and do not affect the development's compliance with the statutory instruments as assessed under SSD-9794.

The project as modified remains consistent with the following legislation and EPIs as outlined in the table below.

Statutory Instrument	SSD-9794 and proposed modification compliance
<i>Environmental Planning and Assessment Regulation 2021</i>	The modification is lodged with regard to the relevant provisions of the EP&A Regulation 2021.
<i>Biodiversity Conservation Act 2016</i>	As per the findings of the original Biodiversity Development Assessment Report Waiver and the minimal environmental impact of the proposed modifications, no approval under the <i>Biodiversity Conservation Act 2016</i> is required.
<i>Heritage Act 1977</i>	An HIS dated 13 February 2026 is provided with the modification application. The HIS has found that none of the changes proposed will result in a degradation of the World, National or State Heritage value of the Opera House. Section 65A approval is sought concurrent to this application.
<i>State Environmental Planning Policy (Planning Systems) 2021 (Systems SEPP)</i>	<p>This modification application is SSD as it is located on the Sydney Opera House site, which is identified on the State Significant Sites Map. Compliance with the requirements of any DCP is not relevant as set out in the SEPP.</p> <p>The original SSD was assessed against the <i>State Environmental Planning Policy (State and Regional Development) 2011</i>. This SEPP was consolidated into the <i>State Environmental</i></p>

Statutory Instrument	SSD-9794 and proposed modification compliance
<p><i>State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021</i> (Eastern Harbour City SEPP)</p>	<p><i>Planning Policy (Planning Systems) 2021</i>.</p> <p>This SEPP outlines the relevant exempt development provisions for the Sydney Opera House site. Proposed alterations to internal areas, including the kitchen and bar areas, will utilise these exempt provisions, and do not form part of this modification application.</p> <p>The original SSD was assessed against the <i>State Environmental Planning Policy (State Significant Precincts) 2005</i>. Relevant provisions of this SEPP were consolidated into the Eastern Harbour City SEPP.</p>
<p><i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> (BC SEPP)</p>	<p>The original application was assessed against planning principles and provisions in the <i>Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</i> (REP) that were required to be adhered to for development at the Sydney Opera House. The EIS addressed these accordingly, including:</p> <ul style="list-style-type: none"> • <i>Clause 13: Planning principles for the Sydney Harbour Catchment.</i> • <i>Clause 14: Planning principles for the Foreshores and Waterways Area.</i> • <i>Clause 15: Planning principles for heritage conservation.</i> • <i>Clause 21 – 27: Matters for consideration.</i> • <i>Part 5: Heritage Provisions.</i> <p>It was stated in the EIS that due to the minimal environmental impacts, the scale of the proposal, and</p>

Statutory Instrument	SSD-9794 and proposed modification compliance
	<p>extensive heritage inputs, the application was compliant with the principles. This modification does not propose to increase the scale or intensity of the application, meaning a detailed assessment against these principles is not provided.</p> <p>Note that certain provisions of this REP were consolidated into the BC SEPP.</p>
<p><i>State Environmental Planning Policy (Resilience and Hazards) 2021 (RH SEPP)</i></p>	<p>The original SSD application was assessed against the <i>State Environmental Planning Policy (Coastal Management) 2018 (Coastal SEPP)</i>, which outlined requirements in regard to coastal protection measures. The EIS provided an assessment against the following provisions which are now located within the RH SEPP:</p> <ul style="list-style-type: none"> • <i>Division 3, Clause 13: Development on land within the coastal environment area</i> • <i>Division 4, Clause 14: Development on land within the coastal use area.</i> <p>The Assessment Report by the DPHI stated that despite the site being identified as located within the coastal environment area and coastal use area, the above clauses do not apply.</p> <p>The RH SEPP outlines provisions regarding potentially contaminated land. As clarified in the EIS, the proposed works are not proposed to extend beyond the existing concrete pad of the Lower Concourse. Further to this, the site was not</p>

Statutory Instrument	SSD-9794 and proposed modification compliance
	<p>identified on the EPA's contaminated public land record. Note that the original SSD was assessed against the <i>State Environmental Planning Policy No. 55 – Remediation of Land</i>. SEPP 55 was consolidated into the RH SEPP.</p>
<p>Sydney Local Environmental Plan 2012</p>	<p>The EIS for the original consent SSD-9794 addresses the SLEP 2012, including permissibility and compliance with design excellence and competitive design.</p> <p>The proposed development continues to be permissible with consent, (noting, however, the zone name has changed from B8 Metropolitan Centre to SP5 Metropolitan Centre since the original consent). Further to this change, there are additional overarching objectives that have been added to the zone.</p> <p>The proposed modification meets all objectives of the zone.</p>

Table 4: Statutory Compliance Table

An assessment of relevant EPIs is provided at Appendix 4 where additional assessment is required from the original application.

7 Community Engagement

Extensive consultation was undertaken with DPHI, Council, relevant NSW Government agencies and the community as part of SSD-9794.

Given the minor nature of the proposed modifications and general consistency with the approved development, no further formal engagement has been undertaken as part of the preparation of this modification application.

Notwithstanding, this modification application has been considered in accordance with the EP&A regulations, and any submissions will be duly considered.

A meeting was held with the DPHI, the Sydney Opera House Trust (applicant) on 3 December 2025, where it was confirmed that the application would be considered in accordance with the requirements for 4.55(1A) modification applications as per the *City of Sydney Community Engagement Strategy and Community Participation Plan 2025-2029*.

8 Assessment of Impacts

The proposed modification is consistent with the conclusions of the EIS submitted with SSD-9794 which found that the development will result in acceptable environmental impacts. The proposed changes do not increase the overall scale or expand the scope of the original application in terms of change of use or physical scale and footprint. No updated mitigation measures are required as part of this application due to the minimal environmental impacts and physical changes. The mitigation measures outlined in the original EIS remain relevant to this application.

Section 4.15(1) of the EP&A Act requires an assessment of the extent of environmental impacts caused by development. The proposed modification is substantially the same development as the development for which consent was originally granted, and the proposed modifications are not of a scale or nature that changes the development as approved.

The proposed modifications do not result in any additional environmental impacts. The modifications are in part proposed to respond to conditions imposed for SSD-9794, along with general improvements to the approved design. The development results in an overall reduction in environmental impact through removal of the existing outdoor canteen island bar, as illustrated on the Architectural Plans dated 3 February 2026. Alterations to internal back-of-house areas will be undertaken under exempt provisions of the Eastern Harbour City SEPP that allow for minor impact development.

The proposed changes to the design are not major structural or operational alterations. The uses and character of the Lower Concourse as approved are retained by this modification, with no extension of the approved areas proposed. Changes proposed will not increase the intensity of the existing consolidated uses but rather enhance the accessibility and flow of the uses.

Hence, only the potential impacts relating to the proposed modification have been assessed in detail. These are discussed below.

8.1 Heritage

A Heritage Impact Statement (HIS) dated 13 February 2026 has been provided by Design 5 Architects. The HIS outlines that no further heritage impacts will occur as a result of the proposed modification, subject to recommended conditions. The original HIS (dated 24 August 2019) was updated in 2025 to support a further S60 application under the Heritage Act. This application was required to ensure that a relevant S60 approval remained to accompany the proposed works, as the original approval lapsed in 2025, five years after approval of the DA. There is no substantive change between the 2019 version and the 2025 version.

Subject to conditions recommended by Design 5 Architects surrounding the visibility of the original concrete mushroom columns within the reconfigured access WC, the proposal provides changes which are sympathetic to the original context and setting of the Lower Concourse. The external changes stay consistent with the design, materials and palette of the surrounding Lower Concourse, constituting a minor impact development that does not detract from the World, National or State Heritage significance of the Sydney Opera House.

8.2 Urban Design and Visual Impacts

The visual impacts of this proposal remain largely unchanged from the original consent. The primary external element of the original application was the replacement of the existing shade structures. These shade structures remain unchanged as part of this modification application, meaning visual impacts of the modification are minimal.

Other external elements that are proposed to be altered as part of this modification will result in minimal visual impact. These elements are minor alterations within the existing footprint and layout of the Lower Concourse, staying consistent with the overall scope of the SSD-9794 consent. As stated in Section 1, the Sydney Opera House Design Advisory Panel was consulted and were supportive of the elements involved in the proposal.

8.3 Pedestrian access

The removal of the canteen island bar proposed by the modification provides a clear pathway for pedestrian access through the Lower Concourse. This provision of improved pedestrian access through the site responds to condition E11 of SSD-9794. The proposal will result in an improvement to public pedestrian access.

8.4 Suitability of the site for the development

The site remains suitable for the project and proposed modification for the reasons outlined in the EIS submitted with SSD-9794.

8.5 Submissions

The proposed development will be treated in accordance with DPHI's notification policy. DPHI will consider any submissions received prior to the determination of the modification application.

8.6 Public interest

The project continues to be in the public interest as the modification will ensure the effective and efficient operation of the Lower Concourse area of the Sydney Opera House. The strategic merit remains unchanged from what was originally assessed and approved.

The SOH Design Advisory Panel was consulted on 8 December 2025 and supported the proposal.

Further, it is in the public interest that there is a compliant DDA-accessible bathroom on the Lower Concourse because it ensures equitable access for all users, and supports safe, dignified, and independent use of the premises by people with disabilities.

DPHI will consider any public submissions relating to the proposal during its assessment. Accordingly, it can be concluded that the proposed modification is entirely in the public interest.

9 Justification for Modified Project

This modification application seeks minor external and semi-external modifications to the SSD-9794 consent. The proposed modification is of minimal environmental impact and is substantially the same as the approved development. It will not result in any environmental impacts beyond those considered in the assessment and determination of SSD-9794. The proposed modification does not result in any substantial change or amendment to the design or construction methodology of the approved development.

This report has assessed the proposed modification of SSD-9794 against the requirements of sections 4.15 and 4.55(1A) of the EP&A Act, supported by technical studies.

This assessment has concluded that the proposed modification is acceptable as it:

- does not increase the intensity of the existing uses, nor add any additional uses to the approved consent
- will result in improved pedestrian flows throughout the Lower Concourse
- will result in negligible external impacts due to the Lower Concourse Bar glazing line remaining in its approved position, along with retaining the approved shade structure designs under SSD-9794
- will not cause any increase in traffic demand as there is no increase in intensity
- will not result in any adverse environmental impacts beyond those approved under SSD-9794
- ensures compliance with Conditions B32 and B33 of the original consent relating to the accessibility of the Lower Concourse facilities for people with disabilities.

This assessment has concluded that on balance, the changes proposed:

- are of minimal environmental impact
- are substantially the same as the development for which consent was originally granted
- will not result in any adverse environmental impacts
- will facilitate the orderly economic development of the land.

Consequently, approval of this modification application is recommended.

Appendix 1

Original development consent

Appendix 2

Proposed modification plans

Appendix 3

Updated project description, incorporating proposed modifications

SSD-9794 was approved for the following project description:

Minor works and uses at the Lower Concourse of the Sydney Opera House, including:

- *extension and re-alignment of the glazing line of the Opera Bar*
- *replacement of shade structures*
- *refurbishment of back-of-house areas*
- *consolidation of all Lower Concourse uses, including the restaurant and bar areas trading as Opera Bar, Opera Kitchen, and the Visitor Information and Interpretation Centre.*

The proposed modification is minor in nature and results in a minor update to the project description. The new description should read as follows:

Minor works and uses at the Lower Concourse of the Sydney Opera House, including:

- *extension and re-alignment of the glazing line of the Lower Concourse Bar*
- *replacement of shade structures*
- *consolidation of all Lower Concourse uses, including the Lower Concourse Bar, Eatery and the Welcome Centre*
- *new clad walls, tiling and finishes to accommodate minor alterations.*
- *minor external alterations, including the demolition of external island bar, alterations to existing external bar, and minor changes to the eatery façade.*

Appendix 4

Updated statutory compliance table

Statutory reference	Mandatory consideration	Section in report
Environmental Planning & Assessment Act 1979 (EP&A Act)		
Section 1.3	<p>Relevant objects of the Act</p> <ul style="list-style-type: none"> • <i>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,</i> <p>The development promotes the social and economic welfare of the community.</p> <ul style="list-style-type: none"> • <i>to promote the orderly and economic use and development of land,</i> <p>The development promotes the orderly and economic use and development of the land.</p> <ul style="list-style-type: none"> • <i>to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,</i> <p>The proposal will protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats. As the works occurring within the existing footprint of the Lower Concourse, potential impacts of flora and fauna are minimal to none.</p> <ul style="list-style-type: none"> • <i>to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),</i> <p>The HIS completed by Design 5 Architects states that works were deemed to strengthen the use, amenity and design consistency of the Lower Concourse. It was deemed that the works proposed have no negative impact on the nationally significant heritage value of the Sydney Opera House. The HIS is attached at Appendix 5.</p> <ul style="list-style-type: none"> • <i>to promote good design and amenity of the built environment,</i> 	N/A

Statutory reference	Mandatory consideration	Section in report
	<p>Good design and amenity are achieved by this modification application through use of materials and design elements which take into account the requirements for the Sydney Opera House site.</p> <ul style="list-style-type: none"> • <i>to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,</i> <p>The proposed development will provide improved patron facilities at the Sydney Opera House.</p> <ul style="list-style-type: none"> • <i>to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State</i> <p>This application will be determined by the DPHI; however, the City of Sydney Council will provide comment.</p> <ul style="list-style-type: none"> • <i>to provide increased opportunity for community participation in environmental planning and assessment.</i> <p>The opportunity for community participation occurred during the original approval process.</p>	
Section 2.22	<p>(1) Part 1 of Schedule 1 sets out the mandatory requirements for community participation by planning authorities with respect to the exercise of relevant planning functions.</p> <p>(2) Those mandatory requirements for community participation include any other forms of community participation that are set out in a community participation plan under this Division and that are identified in that plan as mandatory requirements.</p>	Section 2.22 of the EP&A Act is addressed in depth at Section 7 of this report.
Section 4.15	<p>(1) Matters for consideration—general In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application—</p> <p>(a) the provisions of—</p> <p>(i) any environmental planning instrument, and</p> <p>(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent</p>	Section 4.15 of the EP&A Act is addressed in depth at Section 6.2.3 of this report.

Statutory reference	Mandatory consideration	Section in report
	<p>authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and</p> <p>(iii) any development control plan, and</p> <p>(iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and</p> <p>(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),</p> <p>(v) (Repealed)</p> <p>that apply to the land to which the development application relates,</p> <p>(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,</p> <p>(c) the suitability of the site for the development,</p> <p>(d) any submissions made in accordance with this Act or the regulations,</p> <p>(e) the public interest.</p>	
Section 4.55(1A)	<p>(1A) Modifications involving no or minimal environmental impact A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—</p> <p>(a) it is satisfied that the proposed modification is of no or minimal environmental impact, and</p> <p>(b) it is satisfied that the development to which the consent as modified relates is the same or substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and</p> <p>(c) it has notified the application in accordance with—</p>	Section 4.55(1A) of the EP&A Act is addressed in depth at Section 6.2.1 of this report.

Statutory reference	Mandatory consideration	Section in report
	<p>(i) the regulations, if the regulations so require, or</p> <p>(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and</p> <p>(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be. Subsections (1) and (2) do not apply to such a modification.</p>	
Section 4.55(3)	(3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.	Section 4.55(3) of the EP&A Act is addressed in depth at Section 6.2.2 of this report.
State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021		
Appendix 1 Part 1	<p>(2) In deciding whether to grant consent to development in the buffer zone, the consent authority must consider the need for the development to—</p> <p>(a) preserve the world heritage value of the Sydney Opera House, and</p> <p>The HIS dated 31 March 2025 stated that the heritage outcomes of the proposal are acceptable. An updated HIS has been provided by Design 5 Architects, which supports the proposal and states that none of the listed World, National or State Heritage values are adversely affected by this proposal. This HIS is attached at Appendix 5.</p> <p>(b) preserve views and vistas between the Sydney Opera House and other public places in the buffer zone, and</p>	N/A

Statutory reference	Mandatory consideration	Section in report
	<p>This modification does not intrude on any views and vistas between the Sydney Opera House and other public places. The modification stays consistent with the footprint of SSD-9794, taking place within the existing footprint of the Lower Concourse area.</p> <p>(c) avoid diminution of the visual prominence of the Sydney Opera House when viewed from other public places in the buffer zone.</p> <p>The modification avoids diminution of the visual prominence of the Sydney Opera House when viewed from other public places. The modification proposes minimal and low impact external elements.</p>	

Appendix 5

Heritage Impact Statement

Appendix 6

Lower Concourse Operational Area Report