

Explanation of Intended Effect: Vibrant Precincts State Environmental Planning Policy

Proposed changes to support entertainment in key precincts

June 2026

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Acknowledgement of Country

The Department of Planning, Housing and Infrastructure acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land, and we show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

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Glossary

Term	Definition
BCA	Building Code of Australia
Codes SEPP	State Environmental Planning Policy (Exempt and Complying Development Codes) 2008
Commercial premises	Commercial premises means any of the following (a) business premises (b) office premises (c) retail premises. As defined in the Standard Instrument – Principal Local Environmental Plan
Complying development	A streamlined planning pathway where development consent is given through a complying development certificate by council staff or a private certifier in a simplified process, subject to meeting certain standards.
DA	Development application
Development standards	Planning controls in the Codes SEPP that provide the parameters under which exempt or complying development can take place.
EHC SEPP	State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021
EIE	Explanation of Intended Effect (this document)
Entertainment facilities	Entertainment facility means a theatre, cinema, music hall, concert hall, dance hall and the like, but does not include a pub or registered club. As defined in the Standard Instrument – Principal Local Environmental Plan.
EP&A Act	Environmental Planning and Assessment Act 1979
Exempt development	A streamlined planning pathway that allows development without prior approval, provided that the development complies with the relevant development standards.
L&GNSW	Liquor and Gaming NSW
LEP	Local Environmental Plan, an environmental planning instrument controlling development within a local government area.
Licensed premises	A premises licensed to sell alcohol under the Liquor Act 2007
Local Government Act 1993	The primary piece of legislation regulating the powers and responsibilities of local councils in NSW and sets out the provisions for Special Entertainment Precincts.
O24HEC	Office of the 24-Hour Economy Commissioner
PMP	Precinct Management Plan prepared by council under section 202D of the Local Government Act 1993 to manage activities in a Special

Term	Definition
	Entertainment Precinct. The plan sets out the trading hours for premises, the regulation of sound from entertainment activity from premises in the SEP, sound management framework and sound attenuation requirements, and the process for managing complaints.
SEPs / Special Entertainment Precincts	An area, streetscape or single venue where sound conditions and trading hours are set by a council in a precinct management plan prepared in accordance with the steps in the SEP Guidelines. Defined in <u>section 202B</u> of the Local Government Act 1993.
SEP Guidelines	The <u>NSW Special Entertainment Precinct Guidelines</u> published by the O24HEC in November 2024
SEPP	State Environmental Planning Policy
Shops	Shop means premises that sell merchandise such as groceries, personal care products, clothing, music, homewares, stationery, electrical goods or the like or that hire any such merchandise, and includes a neighbourhood shop and neighbourhood supermarket, but does not include food and drink premises or restricted premises. A type of retail premises as defined in the Standard Instrument - Principal Local Environmental Plan.
SILEP	The Standard Instrument - Principal Local Environmental Plan (2006 EPI 155a) is a consistent template for the content of each council's LEP.
SOHT	The Sydney Opera House Trust, operators and managers of the Sydney Opera House
State significant development / SSD	Development that is declared to be State significant development under section 4.36(1) of the EP&A Act. Development is generally considered significant to the State if it is over a specific size, is in an environmentally sensitive area or will exceed estimated development cost. This includes cultural, recreation and tourist facilities with an estimated development cost of over \$30 million.
State significant infrastructure (SSI)	Development that is declared to be SSI under s 5.12(1) of the EP&A Act. SSI projects are generally activities that are carried out by public authorities that are likely to have a significant impact on the environment and include transport and services developments with effects beyond their local area, and wharves and boating facilities.
Vibrancy reforms	A series of legislative and policy changes developed by the NSW Government to improve the night-time economy in NSW through reform of noise and sound rules, live music incentives, outdoor events and activation, streamlined liquor licensing and Special Entertainment Precincts.

1 Introduction

The NSW Government is proposing changes to the planning system to support events and activities in a variety of local, state and global entertainment precincts. This includes specifically declared Special Entertainment Precincts, the arts precinct at Walsh Bay, and operations at the Sydney Opera House site.

We would like to hear your thoughts on the proposals that interest you.

The NSW Government's vision for the state's 24-hour economy is to cement NSW as a world class nightlife destination for visitors, locals and workers alike.

The three proposals in this Explanation of Intended Effect (EIE) are at different stages of development and will support different government agencies and councils to build on this vision.

Chapter 2 proposals aim to enhance **Special Entertainment Precincts (SEPs)** by building on the existing policy and legal framework. They seek to increase and intensify a range of uses and activities in the precincts through streamlined approval pathways. Several councils are trialling SEPs, or plan to, in their area with the support of the Office of the 24-Hour Economy Commissioner. We would like to hear your thoughts on the proposals and if they should apply to all precincts.

Chapter 3 invites your comments on early investigations to modernise the existing State Environmental Planning Policy controls for **Walsh Bay**. Modernisation will make them fit for purpose to support the precinct's arts use and heritage features. This may include updating or removing bespoke maritime objectives that no longer align with the current uses or strategic planning objectives, and an updated map.

Chapter 4's changes for the **Sydney Opera House** site have been developed in association with Sydney Opera House Trust (the Trust), which is responsible for the operation of the Sydney Opera House. Their proposals include simplifying the requirements for maintenance works and activating spaces for events and activities as exempt development. A draft Sound Management Plan is also included. It sets out how event sound will be managed and monitored. These changes will allow the Sydney Opera House to continue to be the country's leading tourism, arts and entertainment venue, while working within its UNESCO World Heritage listing.

Chapter 5 explains how to give us your **feedback** on the proposals. Comments and feedback submitted during public exhibition will be used to finalise changes to the planning controls for the proposals in this document. We have included prompt questions in the EIE, you can answer those which are relevant and/or provide us with your thoughts. You do not need to answer all the questions. The final changes are to be made using an *amending State Environmental Planning Policy*, which allows for several planning instruments to be changed at the same time.

2 Enhancing Special Entertainment Precincts

2.1 Overview

Special Entertainment Precincts (SEPs) are areas identified by councils where they want to encourage more live music, entertainment and later operation of businesses and community facilities and support their night-time economies through extended trading hours and favourable noise controls for live music venues.

The NSW Productivity and Equality Commissioner's *Review of regulatory barriers impeding a vibrant 24-hour economy* highlighted the benefits of the SEP framework. The review noted that SEPs can make it easier and cheaper for businesses to establish, contributing to a richer and more diverse entertainment environment through precinct wide controls and streamlined approvals.

Councils can establish SEPs in their local area under the framework set out in the *Local Government Act 1993* and the process is explained in the *NSW Special Entertainment Precinct Guidelines*. This requires a local council to identify a SEP in its local environmental plan (LEP) and prepare and exhibit a precinct management plan (PMP). A PMP includes setting later trading hours, a sound management framework to regulate increased sound from entertainment activity and to make sure that new development is designed to mitigate impacts from sound.

In accordance with the SEP Guidelines, councils must prepare a PMP in consultation with L&GNSW, NSW Police, the Local Health District and the community. Councils review sound sources, their management and set mitigation measures for new developments for inclusion in the PMP. Existing conditions in new development consent or a complying development certificate relating to entertainment sound and trading hours are overridden by the new settings in the PMP. This includes additional trading hours for licensed venues that feature live music and performance. Visit the [Vibrancy Reforms webpage](#) for more details on the government's live music incentives and vibrancy reforms. Once established, councils may amend their PMP at any time and must consult on the changes.

The SEPs aim to provide operational certainty for venues, neighbouring residents and businesses by clearly setting the expectations for sound, trading hours and entertainment uses in the defined area.

Enmore Road in Sydney's Inner West became the State's first permanent SEP in December 2023. At the time of writing, 2 councils are trialling SEPs, and 16 are working towards trial/s in their area in consultation with local businesses and their communities (see Table 1 below). The 12–18 month SEP trials range from streets with emerging night-time economies, to regional centres, to well-established entertainment destinations.

Councils investigating if to trial a SEP	Councils working toward a trial SEP/s	Operational SEPs
Penrith Randwick Wollondilly	Bayside Burwood Canada Bay Canterbury Bankstown Central Coast City of Sydney Goulburn Mulwaree Hornsby Inner West Kiama Liverpool Newcastle Northern Beaches Parkes Parramatta Ryde Sutherland Tamworth Waverley Willoughby Wollongong	Inner West – Permanent Enmore Road Inner West – Trial Balmain Dulwich Hill Leichhardt Rozelle Marrickville North Marrickville Town Centre Fairfield – Trial Canley Vale Canley Heights

Table 1: Special Entertainment Precinct status and trial locations (O24HEC, 03 June 2026)

2.2 Background on the new SEP enhancements

The Office of the 24-Hour Economy Commissioner (O24HEC) consulted five councils in 2025 (Wollongong, Northern Beaches, Central Coast, City of Sydney, and Inner West) to explore opportunities to strengthen SEPs. Liquor and Gaming NSW (L&GNSW) and other councils represented through Local Government NSW's Night Time Economy Council's Committee also participated.

During these discussions, councils indicated that SEPs would benefit from further incentives and flexibility to:

- increase the desirability and uptake of the framework across NSW
- help councils achieve better additional outcomes from the work involved in establishing a SEP
- support increased flexibility and streamlining of approvals, beyond noise and trading hours
- support the level of vibrancy that communities expect in areas identified for 24-hour activity.

Enhancing SEPs is a priority for the NSW Government and forms part of the government's broader Vibrancy Reforms agenda¹.

The consultation highlighted strong interest in using 'streamlined planning pathways' to support more activation and to make better use of previously underutilised spaces. This can be achieved

¹ www.nsw.gov.au/business-and-economy/office-of-24-hour-economy-commissioner/vibrancy-reforms/seps

through exempt or complying development processes. This would mean businesses in a SEP would not need to submit a development application to intensify their activities, including changing to a licensed premises. This provides consistency and reduces administrative and consultation burdens for businesses, council assessors, the community and other stakeholders. The enhancements would be self-assessed by the owner if the proposal complies with new development standards and council's precinct management plan. Neighbours, councils and other agencies would not be notified or have a say in the changes proposed below as they currently do for development applications.

All the initiatives described in this chapter (other than proposal 2.4.9 relating to surf lifesaving clubs) are proposed to apply only in SEPs, not more broadly across NSW.

The aim of the proposed changes is to strengthen the SEP framework by encouraging activation while managing amenity impacts, safety and compliance.

2.3 Delivery options

The NSW Government has received feedback from some councils and businesses that the planning framework could be enhanced to activate more indoor and outdoor spaces, on private and public land in SEPs. The following proposals present an opportunity to enhance the SEP framework by allowing more night-time and entertainment uses without needing a new development application. We could implement this with new clauses in the Codes SEPP or in the Standard Instrument - Principal Local Environmental Plan.

The NSW Government intends to apply the additional proposals to all SEPs, including Enmore Road and those currently or soon to start their trials. However, we would like to understand if the proposed changes are sought by all councils and stakeholders as standard features of SEPs. Alternatively, we'd like to understand if councils should choose which proposals apply depending on a particular SEP's future development objectives and assets, and if the additional impacts can be managed by the PMP, or if some may have unintended consequences for other businesses, residents and uses in the precinct.

We would like to hear from councils and other stakeholders on the preferred option, and if there are any benefits or future limitations – for example if a SEP grows, entertainment preferences change or a council decides to end the SEP trial.

Consultation questions

1. Do you support all the new proposals below being automatically included in a SEP, or should councils be able to opt in to each proposal? Please explain why.
2. Should the proposals' development standards be the same across all SEPs or be tailored by each council (where possible)? Please explain why.

The proposals are explored in the sections below. We are seeking your feedback, particularly in response to our **consultation questions** for each proposal. Suggestions for other specific planning changes to improve SEPs are also invited.

2.4 Proposed changes

2.4.1 Allow change of use from a shop to a licensed entertainment facility as exempt development

Under current settings, a change of use from a *shop* to an *entertainment facility* is allowed as exempt development if in accordance with section 2.20A of the Codes SEPP. In November 2020, changes to the Building Code of Australia (BCA) introduced the term ‘small live music or arts venue’ and classified such venues as Class 6 buildings. This included criteria on the size, location in a building, and patron capacity of venues to reduce risk and remove the need for the higher ‘assembly building’ classification.

Arts and performance venues are classed in the BCA as Class 9b ‘assembly buildings’, such as a night club or sporting facility. These have higher fire and building standards than shops for public safety. As a result, the cost and time to gain approval and upgrade a small venue to the higher building class standards meant converting shops was often not financially viable for the arts sector.

To improve this, we added Category 5 to the change of use table in section 2.20A of the Codes SEPP. This would allow suitable shops to change to an entertainment facility if it does not involve a change of building classification under the BCA and meets the additional development standards in s.2.20B(4).

Feedback from councils and industry representatives to the O24HEC noted the existing definition of *entertainment facility* in the Standard Instrument LEP (SILEP) may not capture some smaller, dedicated arts and entertainment venues. The feedback also noted the existing development standards for this change of use pathway don’t accommodate the different sound expectations and later trading hours in SEPs, which encourage night-time activity.

Under the existing change of use pathway from *shop* to *entertainment facility*, the Code SEPP’s development standards provide that, in certain zones, the new use must not change the existing operating hours or not operate past 7pm if the existing DA does not condition operating hours or contravene a condition relating to noise. Additionally, where the current use is a shop, the new use can’t be a ‘licensed premises’ within the meaning of the *Liquor Act 2007*. These standards are in place to meet the ‘low impact’ requirements of exempt development and to protect residential amenity, for example those in shop top housing.

For those that don’t meet these development standards, it means a transition from a shop to an entertainment facility proposing to seek a liquor license requires a development application (DA). The requirement for a DA can discourage some small operators, particularly independent venues or existing retailers looking to diversify, preventing an easy shift towards night-time activity. In SEPs, where entertainment activation is explicitly encouraged, this presents a procedural barrier.

Amending the Codes SEPP to lift the limitation on seeking a liquor licence (whether licensed or not) would make it faster and reduce costs for prospective operators, encouraging more vibrancy within SEPs.

To facilitate this, we are considering an amendment to the Codes SEPP’s change of use provisions. This would allow entertainment facilities to be able to seek a liquor license in a SEP and operate within the SEP’s PMP for noise and trading hours.

The proposed amendment would allow entertainment venue owners to seek a liquor licence from L&GNSW if located in a SEP. Development standards could also state that the hours of operation and sound levels are those as specified in the relevant SEP PMP.

The proposed amendment would introduce development standards that address size (in terms of floorspace, and max patrons) and amenity, and any other relevant matters. For example, there could be development standards as to a maximum size of 300m², location in the building, and a maximum patron capacity of 120 people. This proposed amendment would aim to create minimal additional development standards and would remain consistent with other change of use standards from a shop to an entertainment facility outside of SEP areas.

Some fitouts to accommodate the transition could also take place without a DA, provided the building alterations are consistent with the exempt development provisions in the Codes SEPP (Part 2, Division 1, Subdivision 26). For example, the installation of counters and bars, installation of fixed tables and seating and entertainment equipment such as screens and speakers. Kitchens and food preparation spaces, and other internal alterations would require approval through a complying development certificate.

Consultation questions:

3. Are the existing Codes SEPP Category 5 change of use measures for small arts venues known about? Would guidance help potential users or are more changes needed?
4. Is the sale of alcohol needed to support small arts, music venues and entertainment-related uses as part of your business or in the local SEP?
5. Do you support permitting shops to change to licensed entertainment premises without a DA in Special Entertainment Precincts?
6. Allowing this change would make it easier for licensed premises to establish in SEPs. What strategies will councils use to maintain local services and retail options in SEPs while encouraging flexible change of use? For example, for SEPs located on high streets and centres.
7. Could this outcome be better implemented individually by councils through the planning proposal process they use to establish the SEP?
8. If controls are in the planning system, liquor licence and PMP will businesses, councils, agencies and residents easily be able to understand what is permitted? What can we do to improve this?
9. Are there any other factors we should consider?

2.4.2 Allow a change of use from *office premises* to *an entertainment facility*

This proposal was raised by one council in consultation with O24HEC. Some centres in NSW are experiencing elevated office vacancy rates resulting from changing business practices and increased working from home practices. Some of this floorspace is outdated or unattractive for commercial tenants but well-located for entertainment uses near public transport. Currently, converting these spaces to entertainment focused venues may require a DA.

Enabling a change of use from *office premises* to an entertainment facility (licensed or un-licensed) as exempt development could unlock underutilised commercial stock and address identified shortfalls in cultural infrastructure and employment opportunities in some parts of the state. It

could encourage adaptive reuse, help landlords find viable tenants, and support the strategic shift toward more diverse cultural activity.

However, we also recognise that some councils may be concerned about losing commercial office floorspace in strategic centres, particularly where employment targets are being pursued, or due to potentially incompatible uses in a building.

Development standards would require compliance with the PMP for the SEP, which governs hours of operation and noise impacts. Standards could also limit the new use to only the first two storeys of the building (measured from street level), consistent with the definition of a small arts venue in the *Building Code of Australia*. This helps to provide for safe evacuation of occupants without requiring extensive works to the building to accommodate the increase in persons. Limiting the new use to the first two storeys also mitigates the loss of commercial floorspace, supports activation at street level and reduces the impact of noise and vibration transfer if there are residential floors above.

Some fitouts needed to accommodate the transition could also take place without a DA provided the building alterations are consistent with the exempt development provisions in the Codes SEPP (Part 2, Division 1, Subdivision 26).

Consultation questions:

10. Is vacant commercial space located in areas where more vibrancy is desired, attractive and affordable to artists, performers and audiences? Are these spaces suitable, or is purpose-built space needed?
11. Is a planning solution likely to have a significant impact on uptake, or are other matters more influential, such as leasing costs or tax offsets for property owners?
12. Will a streamlined pathway enabling more entertainment uses make sure adequate commercial floorspace is retained, or will allowing a change of use in part of a building potentially impact the viability of other office / commercial tenants?

2.4.3 Allow temporary arts, cultural and entertainment uses in commercial buildings as exempt development

O24HEC's consultation with councils in 2025 identified further opportunities to make temporary use of vacant or underutilised spaces in SEPs, without needing a development application (DA).

Vacant commercial spaces can detract from overall precinct vitality and vibrancy. Temporary occupation of these spaces by artists, cultural providers, or small event operators, can improve offerings in SEPs. However, the need to secure a DA for a short-term use is often disproportionate in cost and time compared to the potential benefits. This can discourage smaller and independent arts and cultural operators from pursuing these opportunities.

It has been suggested that introducing a new exempt pathway to allow temporary events or 'pop up' arts, entertainment, and cultural uses in existing commercial spaces within SEPs could provide a low-risk solution. Landholders could support activation without committing to long-term leases, and cultural operators could test concepts or run short activations without significant expense or delay.

Development standards would set out the duration and frequency of the temporary use and require compliance with the PMP and size limits. This would make sure temporary uses do not cause cumulative impacts which resemble a permanent land-use change.

Landholder's consent would be required, and additional insurance may be needed to accommodate the changed usage.

Consultation questions:

13. Do you support an exempt development pathway for temporary arts, cultural, and entertainment uses in commercial buildings? Please explain why or why not.
14. Would it be preferable to allow councils to continue to enable temporary uses as part of local planning efforts, rather than a new pathway within SEPs?
15. Does this proposal appeal to commercial building owners / tenants? Are there any matters that we should consider, such as public access to otherwise restricted spaces?
16. What temporary activities should be allowed? E.g. galleries, art studios, performance spaces.
17. What would sensible development standards look like?
18. What period would be suitable for a 'temporary' pop-up use? E.g. a maximum number of consecutive days and/or number of days per year?

2.4.4 Streamline rooftop dining approvals associated with existing food and drink premises or artisan food and drink industry

This initiative was identified through O24HEC's consultation with selected councils in 2025. Rooftop space is underutilised in many centres and could provide additional outdoor dining or entertainment space for bars, restaurants and artisan food and drink industries. This could result in missed opportunities for activation in SEPs where the appetite for unique experiences is strong.

A development application is required to convert roof space to public use if that use was not part of the original approval. Assessment staff would consider matters raised in supporting reports such as the building's age and structure to determine if the roof space was constructed to safely support people and equipment (such as a bar, kitchen, tables and chairs, weather protection etc). Staff would also consider if there are compliant railing heights or barriers to prevent falls, access / exit paths for patrons in case of an emergency and fire management, as well as amenity impacts on neighbouring residents and businesses resulting from additional noise, lighting or loss of privacy.

Rooftops can offer an additional space for customers, to take advantage of good weather and for some of our state's unique views whether city, coastal or country. However, not all buildings were constructed to support rooftop use, public access, or multiple users and vibrancy must not be at the expense of safety. Some rooftop space is not trafficable, or may contain structures such as solar panels, HVAC systems, window cleaning equipment or green roofs.

There has been feedback that applications to use rooftops for dining and associated activities are sometimes not supported due to amenity impacts, for example due to their elevations and proximity to residential and accommodation uses. We would like to understand if non-discretionary development standards or another mechanism could help support councils with their assessments to allow the safe use of rooftops for outdoor dining in SEPs.

Non-discretionary Development Standards

Non-discretionary development standards, also known as non-refusal standards, identify development standards for particular matters like building heights, floor space ratio or lot size.

They have the effect of prevailing over an equivalent standard set out in a local environmental plan (LEP) or development control plan (DCP) that is more onerous. If the proposed development complies with the non-discretionary standard, a consent authority cannot refuse the application on the grounds that the development does not comply with the standard.

Section 4.15(2) of the EP&A Act provides that, where an environmental planning instrument (such as a local environmental plan or a state environmental planning policy) includes non-discretionary development standards and the proposal complies with those standards, the consent authority:

- cannot take those standards into further consideration in determining the DA
- must not refuse the application on the ground that the development does not comply with those standards, and
- must not impose a condition of consent that is more onerous than those standards.

Non-discretionary development standards could cover items including but not limited to; setbacks, building and railing heights, maximum floor spaces and for premises to be compliant with the BCA. Proposals that don't meet the standards would be subject to a full merit assessment.

Consultation questions:

19. Are there engineering and safety factors that should always require rooftop activation to be assessed through a development application? Could non-discretionary development standards cover some assessment matters to improve consistency and facilitate activation?
20. Could public safety risks and amenity be properly managed through carefully designed development standards, or are the considerations unique to each building and location?
21. If non-discretionary development standards were to be introduced, what items must be considered? Alternatively, could improvements be made to the development assessment process, such as guidance for applicants and councils to facilitate the fair merit assessment of rooftop uses?
22. Could other mechanisms help to make sure fair merit assessment of rooftop proposals occurs? What would these include?

2.4.5 Allow town halls and other community facilities to be used for arts and cultural events

In 2025, we consulted through the Cultural SEPP EIE to understand if any changes were needed to planning or zoning controls to allow town halls to be used for entertainment. Following this, we changed the Codes SEPP Part 2, Division 3, Subdivision 10 to allow temporary events on all public land (including buildings) statewide through exempt development. This may already cover most intended outcomes of the proposal. However, we are seeking feedback if any further changes are needed to support the use of town halls and other community facilities in SEPs for performances and cultural events.

The ideas explored during consultation included introducing a new exempt development pathway for entertainment uses within all town halls and community facilities within SEPs, or to activate town halls and community facilities nominated by councils. Another idea explored in O24HEC's consultation with councils was to amend the Standard Instrument LEP to include 'entertainment

facility' in the permissible uses for SP2 (Infrastructure), RE1 (Public Recreation) and R1 (General Residential Zone).

Consultation questions:

23. Is there still a need for planning changes following the recent changes made to the Codes SEPP to activate town halls etc? If so, what is required?
24. Are council-owned town halls or community facilities limited by building or heritage constraints that would preclude them from using the exempt pathway? If so, please note the town halls or community facilities affected, and the specific BCA non-compliances or heritage issues limiting their use as entertainment facilities.
25. Is funding, or another issue, the main barrier to activating these facilities? For example, staffing of venues, acoustic controls, toilet facilities or venue accessibility upgrades? Please specify which.

2.4.6 Allow private carparks to be used for temporary, arts, cultural, or live entertainment events as exempt development

The O24HEC's consultation identified further opportunities to leverage underutilised spaces in SEPs, such as carparks. Carparks can sometimes be vacant outside business hours, and several councils suggested they could host temporary markets, live entertainment, or community events.

The Events and Culture SEPP amended the Codes SEPP to allow temporary events on all public land, under Part 2, Division 3, Subdivision 10 of the Codes SEPP, but an opportunity remains to activate private carparks in SEPs.

A new exempt pathway could support temporary activation while still retaining the carpark as an important piece of infrastructure in a precinct. Businesses or councils could use private outdoor parking areas in SEPs for temporary activation, live entertainment, events and the like, without a DA. This would only apply to open air, street-level carparks to align with fire and safety controls in the BCA.

Development standards could address compliance with the noise and sound controls in the PMP, hours, size and frequency of use. Standards could also address which zones would be eligible, and a buffer distance to homes, to mitigate any impacts to nearby residents.

Consultation questions:

26. Are there any privately owned open-air carparks in your proposed SEPs that could host arts, cultural or live entertainment? Are these carparks linked to approved uses that have conditions of consent that require parking to be provided?
27. What development standards would be needed to allow these carparks to be used? Should there be limits on the size of space used, or frequency and timing of events, etc.?
28. How could carparking and traffic impacts be managed, to make sure transport and parking services are available in a precinct when temporary uses are occurring at parking facilities?
29. Would activations in private open-air carparks in SEPs be able to manage sound impacts in line with the sound controls in place for the SEP?
30. How could other matters, such as the provisions of adequate sanitary facilities to support the activations, be addressed by development standards?

2.4.7 Review restrictions on the size of stages and platforms constructed or installed for private events under complying development

O24HEC received feedback during council consultation that existing 50m² development standard for stages and platforms for events in s 2.122 of the Codes SEPP is too restrictive. Increasing or removing the size limit could give event organisers more flexibility and reduce administrative burden, especially where stages are temporary and impacts of the associated event are managed by PMPs.

The current 50m² cap on stages and platforms self-assessed through the Codes SEPP's exempt development pathway may reflect the BCA which has different requirements for stages less than 50m², 50–150m², and greater than 150m².

The complying development pathway in section 4A.8(a) of the Codes SEPP allows stages up to 100m² for community events, subject to meeting the development standards, but not private events. To support private event operators and create greater alignment between the approvals process for community and private events in SEPs, a complying development pathway could be considered for private event stages above 50m².

Consultation questions:

- 31. Are the Code SEPP's stage size and approval process a key barrier to events in NSW?**
- 32. What size stages are event organisers seeking to use?**
- 33. Should the limit be increased or removed? If increased, is there an upper size threshold (in square metres) that would be appropriate? Can safety risks be managed without an upper limit on stage and platform sizes – for example, via the Australian Standard for load or installation?**
- 34. Stage size can sometimes be a proxy for other impacts, such as crowd size or noise. Would other development standards be required to address such impacts, or can they be adequately managed through the PMP? Should there be a threshold?**
- 35. Would a complying pathway for private events sufficiently meet the needs of event organisers while mitigating public safety risks?**

2.4.8 Allow equipment associated with temporary events on private land as exempt or complying development, such as audio-visual systems, portable toilets, lighting towers, barriers, catering units, large screens and camping equipment

The Codes SEPP already permits several types of temporary event infrastructure such as staging, marquees, tents, scaffolding, fencing and hoardings on public and private land. However, O24HEC's consultation with councils questioned if additional common event equipment (such as audio-visual systems, lighting towers, portable toilets, screens, catering units, etc) can be installed on private land for events that have received a development consent. The objective is to avoid event organisers having to submit a modification to their development consent if the structures change.

Allowing a broader range of temporary infrastructure as exempt or complying development could simplify event logistics and bring planning settings in line with operational needs. This could also

make it easier for unique or bespoke performance equipment for things like outdoor theatre art, circus art, and music performances.

Including larger and bespoke items such as lighting towers, screens or catering units would need development standards to make sure they are properly installed and operated without being assessed by council. Standards would need to address public safety or amenity issues, for example making sure structures don't fall over or that waste is properly managed. Drafting consistent development standards may be difficult due to the variety of locations, events scales and timing.

The SEP PMP is consulted on and developed before the trial period and this must include a review by the NSW Police. Councils can also choose to consult agencies such as Transport for NSW to consider the management of event attendees, traffic and public transport, particularly for classified roads.

We would like your feedback on whether supporting the growth of events on private land is best managed by development standards and the SEP's PMP or if a modification should consider the changes to structures, scale and timing at each site. For example, being able to grow an events size and patron numbers would need more and larger structures.

NB any new exempt or complying development provisions would not remove the need for other permits and approvals, such as under section 68 of the *Local Government Act 1993* and section 138 of the *Roads Act 1993*.

Consultation questions:

- 36. If new provisions are needed for event infrastructure, what would suitable development standards look like, e.g. size, weight, number of items and placement restrictions? Should they be site-specific, and should there be a maximum threshold?**
- 37. Should councils include exempt or complying criteria for private event structures as an LEP amendment for specific SEPs, given that this could be applied to events of different sizes and scales? How would the PMP interact with local approvals?**
- 38. If an approved event wants to grow and change over a period of years, what is the best process to manage the larger structures and different impacts?**
- 39. The current exempt standards do not allow overnight camping, as this should be properly assessed and managed for public amenity and safety, for example, if the site needed to be evacuated and to manage traffic and parking from attendees. Could this be managed through a SEP's PMP for different event types and locations?**

2.4.9 Allow outdoor dining at surf lifesaving clubs as exempt development (across NSW)

The NSW Government is considering changes to the Codes SEPP to make it easier for surf lifesaving clubs on public land to provide outdoor dining. This could be achieved by adding the land use term 'community facility' to the list of eligible uses under Subdivision 20B, section 2.40C(1) of the Codes SEPP. Unlike the other proposals in this chapter, this change would apply across all of NSW, not just in Special Entertainment Precincts.

Many surf lifesaving clubs are approved as community facilities and while some can already offer outdoor dining under the existing provisions, others cannot because their food service is approved

as an ancillary or smaller use (such as a kiosk). This proposal would allow more surf clubs to set up outdoor dining as exempt development.

Appropriate development standards could be designed to keep impacts low, such as making sure the outdoor dining stays secondary to the club's main purpose, does not restrict access to public areas, and that furniture does not present a risk during severe weather. The aim is to support outdoor dining activation at these facilities while protecting public access and local amenity.

3 Walsh Bay

The Walsh Bay Arts Precinct is a public arts and cultural hub on Sydney Harbour. It's managed by Create NSW and is listed on the State's Heritage Register (SHR No: 00559). The wider precinct also includes homes, commercial uses, restaurants, a hotel, wharves and open space. These are now more accessible thanks to the new Barangaroo metro station.

We're proposing to modernise the planning controls relevant to this precinct to support its ongoing use for arts and culture.

3.1 Development of the site from port to an arts precinct

Walsh Bay formerly played a significant role in Sydney Harbour's maritime operations with port infrastructure being developed from the 1830s onwards. The wooden wharves and original features are a unique example of early twentieth century shipping technology in Sydney Harbour.

As port operations declined at the site, the wharves and buildings fell into disrepair. Following government funding to upgrade the buildings, Sydney Theatre Company moved into Wharf 4/5 in 1984.

In 1989, the Department introduced the *State Regional Environmental Plan 16 – Walsh Bay* (SREP 16). This, and the site's permanent conservation order, aimed to protect the heritage significance of Walsh Bay's wharves and buildings. The SREP 16 aimed to facilitate urban renewal and adaptive re-use of the former port buildings. It also sought to make sure new development was compatible with the scale and character of the existing structures, including the wharves, shore sheds, and bond stores.

The Arts NSW Walsh Bay Arts Precinct Master Plan established the vision for Walsh Bay as a world class arts and cultural precinct on Sydney's waterfront. With the aim to provide new and refurbished arts facilities, performance venues, and a new waterfront square for outdoor performances, festivals, public art, commercial, and community activities.

Redevelopment of the site began in 2018 to preserve the heritage values of the wharves and maritime structures while providing state-of-the-art cultural facilities to deliver the plan and its vision.

Pier 2/3 and Wharf 4/5 were adapted from loading docks into award-winning art spaces under various State Significant Development approvals. The redevelopment work strengthened the piers and delivered contemporary acoustic solutions along with a bespoke fit out.

The venues are now home to major cultural organisations including the Australian Chamber Orchestra, Australian Theatre for Young People, Bangarra Dance Theatre, Sydney Dance Company, Sydney Theatre Company, and several commercial tenants.

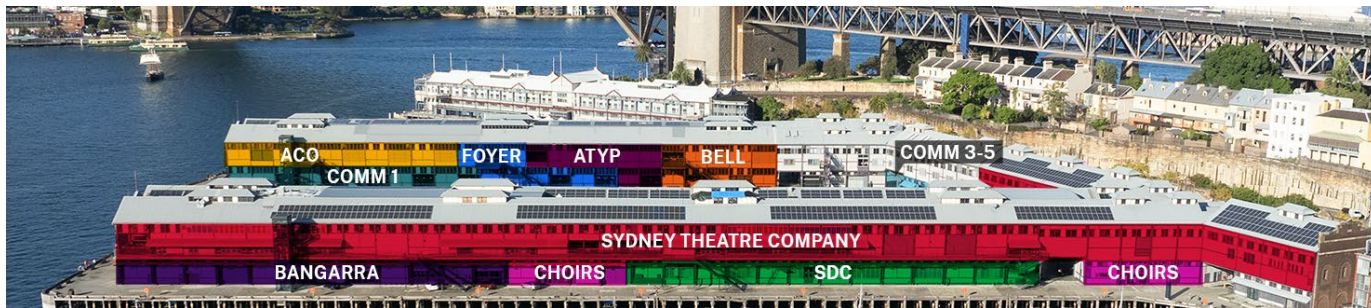


Image: Walsh Bay Precinct arts tenants. Courtesy of NSW Department of Creative Industries, Tourism, Hospitality and Sport

3.2 Current planning controls

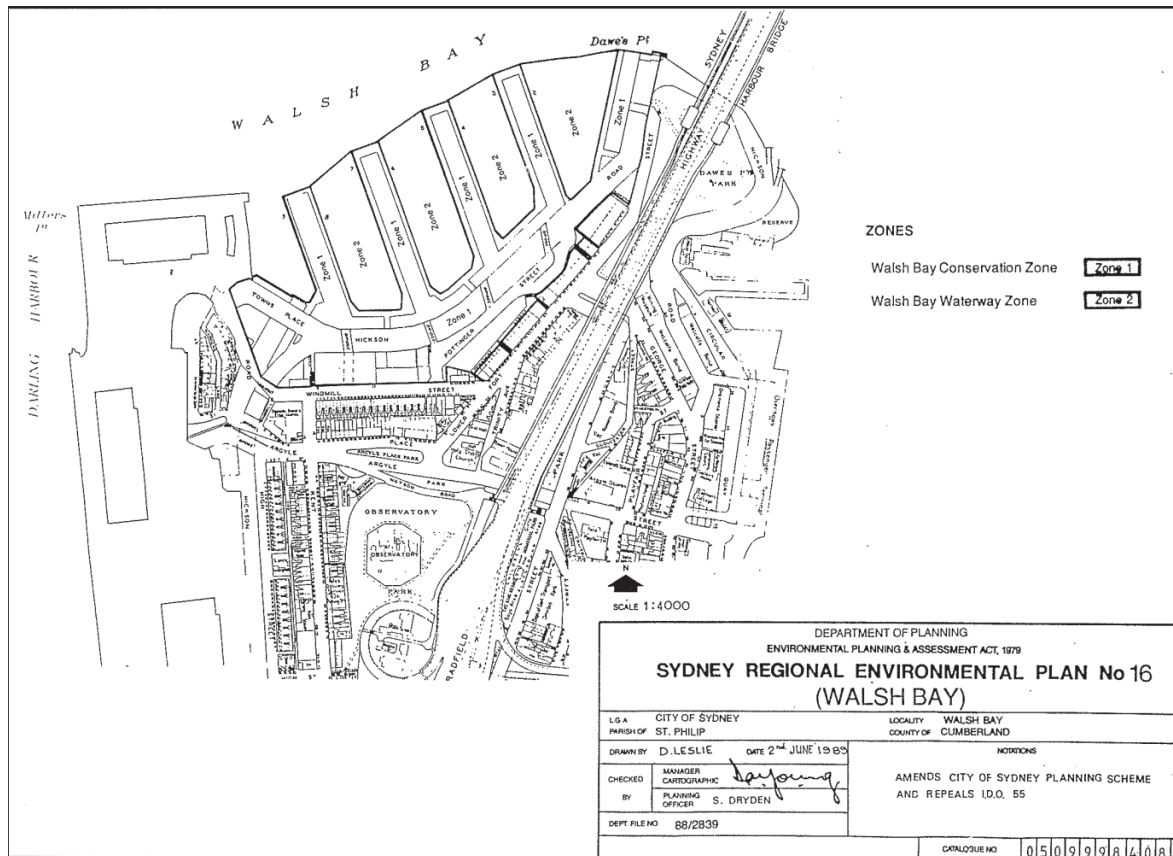
On 1 March 2022 the Department repealed SREP 16 along with most Sydney Regional Environmental Plans (SREPs) as part of a major system overhaul. These reforms consolidated or repealed 45 SREPs into 11 theme-based SEPPs to simplify the planning system and provide consistency, making it easier for users to understand. Walsh Bay's SREP 16, and other state significant precincts' provisions, were turned into a chapter in the *State Environmental Planning Policy (Precincts — Eastern Harbour City) 2021* (EHC SEPP).

The Walsh Bay precinct is split into a Conservation Zone (for land-based uses) and a Waterway Zone (see Figure 1 below).

The EHC SEPP controls support the adaptive re-use of the heritage wharves and former maritime buildings for a range of uses compatible with the surrounding area while ensuring continued public access to the waterfront. There are also restrictions on the adjoining water to maintain Sydney Harbour's shipping and navigational role and use as a community asset.

The EHC SEPP aims, objectives, and controls for Walsh Bay are largely unchanged from those transferred from the 1989 SREP 16. Some of the SEPP objectives are still relevant for the modern Walsh Bay. However, the items consent authorities must consider in development assessments are now out of date. This includes references to maps, studies, and outdated strategies and organisations that no longer exist. There are also terms and definitions that are inconsistent with the standard instrument template and those used in other planning instruments.

The Minister for Planning and Public Spaces is the consent authority for State Significant Development and issues approvals for State Significant Infrastructure. The City of Sydney Council is the consent authority for local development. A consent authority can't issue a consent to carry out certain work in the Walsh Bay Conservation Zone, such as demolishing or altering a building within the zone, until the heritage significance of the Walsh Bay Conservation Zone has been considered.



3.3 Proposed changes

The shift to cultural uses at Wharf 4/5 and Pier 2/3 since the 1980s demonstrates that traditional maritime activities have ceased and are unlikely to resume because of modern shipping and freight requirements.

State Significant Development (SSD) consents for the use of Pier 2/3 and Wharf 4/5 for arts and cultural uses, and ancillary uses including functions and events, represent a new baseline for consideration of future use and development. The SSD conditions of consent place restrictions on events such as hours of operation, frequency, size, and patron capacity, access, and noise.

We would like to modernise the SEPP planning controls to allow the area to flourish without detracting from its heritage significance. We do not propose to change the heritage protections or public access.

The older, bespoke planning controls in the EHC SEPP:

- no longer align with current planning terminology and contain inconsistencies,
- do not recognise and support the current and likely future use as an arts precinct, and
- do not reflect or facilitate the contemporary strategic planning objectives of various government plans and policies

We also propose to develop a new map covering both the land and water-based provisions. This would replace the former SREP 16 map dated 2 June 1989.

Consultation Questions

40. What port or maritime functions should be in the EHC SEPP for Walsh Bay?
41. Are the aims, objectives and matters for consideration currently in the EHC SEPP still relevant? Which can be removed or updated e.g. noise, hours of operation and access?
42. How can commercial, creative and cultural activities be better considered in any proposed changes to the EHC SEPP?

4 Sydney Opera House

4.1 Introduction

The Department is proposing to expand the exempt development framework and introduce development without consent for certain development at the Sydney Opera House, under the State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021 (EHC SEPP). We would like your feedback on the proposals in this chapter.

The proposed policy changes aim to:

- streamline minor impact development by allowing certain activities to proceed as exempt development, or as development without consent for works where environmental impacts need to be considered
- preserve the Opera House’s significance by requiring that exempt development does not adversely affect its heritage significance
- simplify and modernise provisions to reflect the current operational needs of the Sydney Opera House Trust (the Trust), which is responsible for the operation of the Sydney Opera House
- support complementary planning and heritage frameworks so the Sydney Opera House can continue to operate as a world-class cultural and tourism venue.

These proposed changes support the Department’s broader objective to create a modern, responsive, and delivery-focused planning system. They are designed to align with updates to the Sydney Opera House’s site-specific heritage exemptions under the *Heritage Act 1977* (the Heritage Act), which Heritage NSW is managing.

This chapter of the EIE should be read alongside the:

- Eastern Harbour City SEPP
- draft Events Sound Management Review (**Attachment A**)
- Sound Management Plan prepared by Auditoria for the Sydney Opera House (**Attachment B**).

4.1.1 Context for change

The Sydney Opera House is one of Australia’s most treasured landmarks and an internationally renowned cultural icon.

Beyond its cultural value, the Opera House is a key contributor to the NSW economy, attracting tourists and hosting events that drive economic activity and employment opportunities in the heart of Sydney.

It attracts more than 8 million visitors a year and hosts around 2,000 performances, attended by more than 1.5 million people.²

In 2023, the Opera House contributed \$1.2 billion to the NSW economy and supported more than 8,000 full-time equivalent jobs. While its internal operations (\$361 million) contribute significantly to this figure, most of its economic impact comes from tourism, drawing visitors from across Australia and the world to Sydney (\$824 million).³

Preserving the heritage significance of the Sydney Opera House is essential to maintain its unique identity and legacy for future generations. At the same time, the site's operators must be able to carry out day-to-day development and maintenance in a timely manner. This includes work like repairs, equipment upgrades, and the installation of art and signage.

The planning system also has an important role to play in supporting performances and events through streamlined planning pathways such as exempt development, to enable our cultural sector to flourish. This pathway reduces costs which can instead be invested in the arts and encourage more people to engage in events and activities, and to support NSW's economic and tourism sectors.

By balancing heritage conservation with operational demands, the proposed policy amendments aim to make sure the Sydney Opera House remains a vibrant, functional and sustainable venue that continues to contribute to the NSW arts and cultural sector, benefit the economy, and enrich the lives of Australians and visitors from around the world.

4.2 Existing planning and heritage framework

4.2.1 Planning approval requirements

Under section 2.6(1)(b) and Schedule 2, cl 1 of the State Environmental Planning Policy (Planning Systems) 2021 (Planning Systems SEPP), development at the Sydney Opera House site is classified as State Significant Development (SSD). This means development at the Opera House requires the approval of the Minister for Planning and Public Spaces, or their delegate, unless the proposed works qualify as exempt development.

The Sydney Opera House site is mapped in the Planning Systems SEPP. It comprises the boundary shown in Figure 2 below.

² Respecting the Vision: Sydney Opera House – A Conservation Management Plan

³ Deloitte 2023 Report Valuing 50 years of Australia's Icon

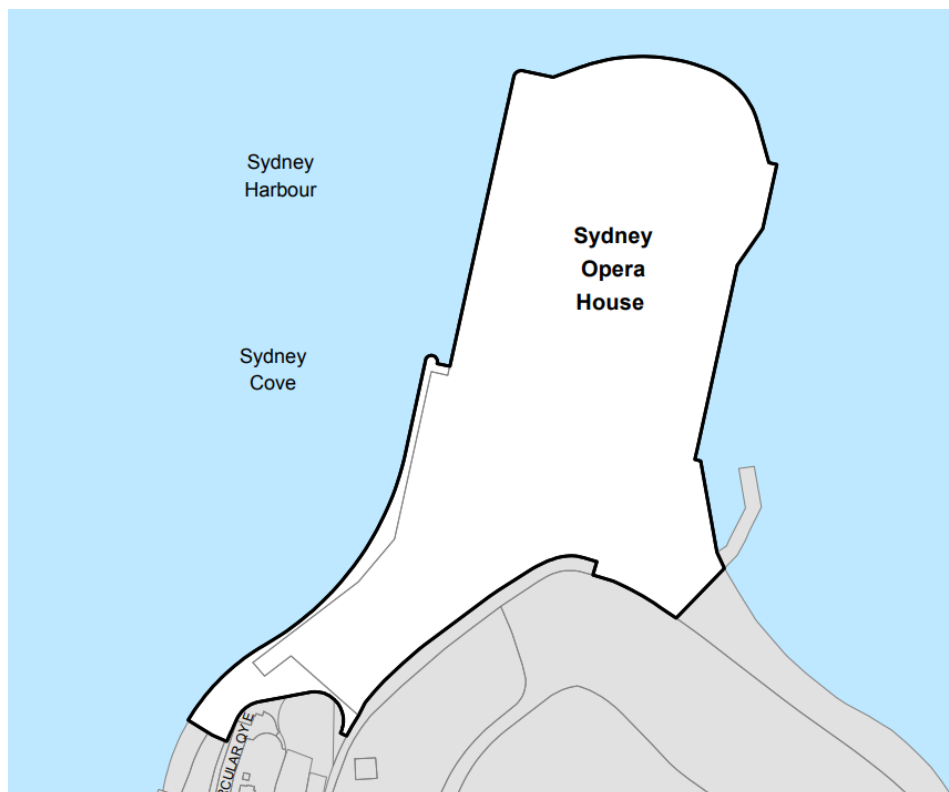


Figure 2: Map of the Sydney Opera House boundary (indicated by the bold black line) under the Planning Systems SEPP

Certain works at the Sydney Opera House can be carried out as exempt development if they meet the relevant requirements of either the:

- exempt development provisions under Appendix 1 of the EHC SEPP, or
- other exempt development provisions under the Codes SEPP.

Exempt development is minor, low-impact development that can be undertaken without the need for planning and building approval, provided the work complies with specified development requirements and standards.

State Significant Development is development that requires consent from either the Independent Planning Commission or the Minister for Planning and Public Spaces before it may proceed. State Significant Development undergoes a comprehensive, merit-based assessment with specific notification requirements, including public exhibition.

4.2.2 State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021

The EHC SEPP guides development within the Eastern Harbour City precinct, including areas such as Walsh Bay, Barangaroo and Darling Harbour. The policy provides a streamlined exempt development pathway in certain precincts, including the Sydney Opera House. It applies to land within the Sydney Opera House site, as referred to in section 1 of Schedule 2 of the Planning Systems SEPP.

The exempt development provisions for the Sydney Opera House site are in Appendix 1 of the EHC SEPP. They include low-impact development such as minor repairs and minor public domain works, and the use of public spaces for events. These provisions generally align with the site-specific exemptions under the Heritage Act and are consistent with the Sydney Opera House Conservation Management Plan Third Edition (CMP3). However, the EHC SEPP does not override any requirements to obtain approval under the Heritage Act.

Planning and heritage approvals don't always align. Some development may require heritage approval but not planning approval, and vice versa. This creates a complex regulatory environment for the Sydney Opera House. The flowchart below (Figure 3) shows the planning and heritage development framework for the Sydney Opera House.

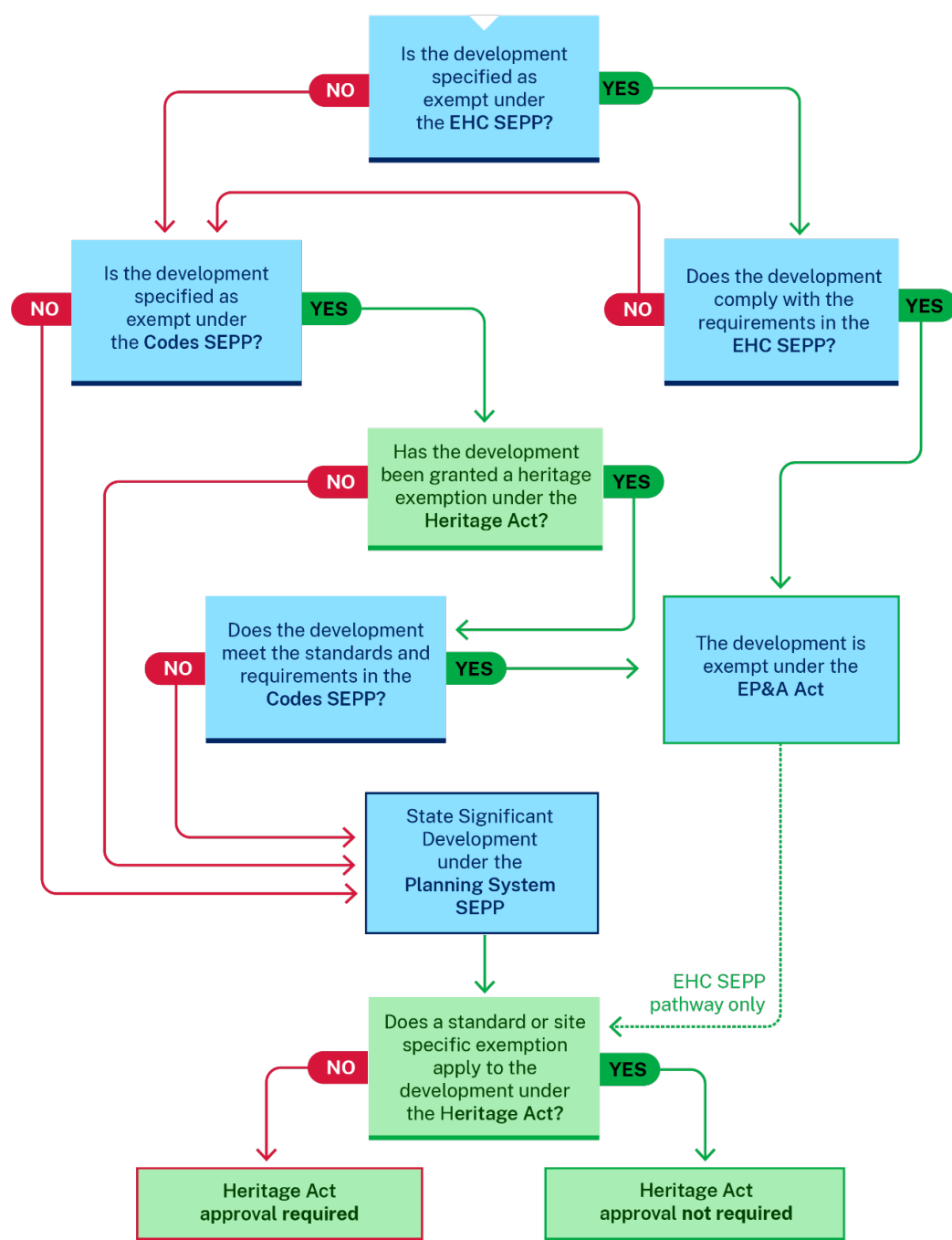


Figure 3: Planning and heritage framework for the Sydney Opera House

4.2.3 State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

The Codes SEPP specifies development that can be carried out as exempt and complying development across NSW, provided certain requirements, development controls and standards are met.

Under section 1.16(1A) of the Codes SEPP, exempt development generally cannot be carried out on an item listed on the State Heritage Register unless the proposed work or activity has been granted an exemption under section 57(2) of the Heritage Act.

The Sydney Opera House is listed as an item on the State Heritage Register, but it benefits from standard exemptions that apply to all State Heritage Register items, as well as site-specific exemptions. This means certain exempt development is still possible at the Sydney Opera House site under the Codes SEPP.

4.3 Heritage approval requirements

The Sydney Opera House has received state, national and world heritage listings, highlighting its cultural significance and the need to conserve the iconic site.

4.3.1 The Heritage Act 1977

The Heritage Act is the main piece of legislation for managing and protecting state and local heritage in NSW. The Sydney Opera House was listed on the State Heritage Register in 2003. The boundary of the Sydney Opera House heritage listing is shown on the map in Figure 4.



Figure 4 State Heritage Register curtilage hatched red.

Any work or activity that may impact an item listed on the State Heritage Register requires approval from the NSW Heritage Council, unless a heritage exemption applies for the works.

The Minister for Heritage is responsible for administering the Heritage Act, including issuing standard exemptions for a range of works and activities on heritage-listed items. The standard exemptions mean that these works and activities do not require approval under the Heritage Act, provided all standards are met. You can find the standard exemptions on the [Environment and Heritage website](#).

In addition to standard exemptions, some items listed on the State Heritage Register have site-specific exemptions to cater for their unique needs. This allows activities and works to be undertaken without approval under section 57 of the Heritage Act, provided relevant standards and conditions are met.

The site-specific exemptions for the Sydney Opera House site enable the ongoing maintenance and operation of the Opera House, as well as its temporary use for special events. They cover activities such as:

- internal and external design and fit-out of shops and restaurants
- security arrangements
- temporary structures for events
- a range of other operational works and activities.

You can find the site-specific exemptions for the Sydney Opera House in the [Government Gazette Number 195 of 3 December 2004](#)..

Heritage NSW is currently updating the site-specific exemptions for the Sydney Opera House site to better align them with the proposed changes to the EHC SEPP provisions and contemporary needs of the site.

4.4 Conservation Management Plan

The Sydney Opera House's heritage conservation and management is guided by the Conservation Management Plan, [*Respecting the Vision: Sydney Opera House – A Conservation Management Plan*](#) (CMP4). The Sydney Opera House Trust adopted CMP4 in 2017 and the NSW Heritage Council most recently endorsed the plan in 2022.

The CMP4 is a resource and management tool for anyone preparing proposals, or making decisions about the use, maintenance, management and future of the Sydney Opera House. It works alongside the [Utzon Design Principles](#), which set out the design vision for the Opera House in the original architect's own words and his thoughts on managing change. The CMP4 outlines the policies and methods for preserving and respecting the design vision.

In addition to the CMP4 and Utzon Design Principles, the Sydney Opera House Conservation Council and the Design Advisory Panel provide specialist conservation, heritage and design advice to the Trust and other stakeholders. Other guidelines and manuals endorsed by the NSW Heritage Council also inform specific works at the Sydney Opera House under the heritage framework.

4.5 Proposed amendments

4.5.1 Objective of amendments

The EHC SEPP provisions need to be updated to reflect the current planning and heritage conservation frameworks for the Sydney Opera House. The updates are intended to support the Opera House's contemporary operational and maintenance needs, as well as its contribution to the arts and cultural sector and the NSW economy.

As outlined in section 4.3.1 in this EIE, the site-specific exemptions under the Heritage Act are currently being updated, and the CMP4 has been released. Updates to the EHC SEPP are needed to reflect these revised documents and, where possible, better align the planning and heritage frameworks.

The proposed amendments also provide an opportunity to contemporise the planning controls that apply to the site, by simplifying and modernising the language, reducing duplication, and clarifying the relationships between different legislation or plans.

The operational needs of the Sydney Opera House have evolved since the legislative framework was first put in place. The proposed amendments seek to expand the activities that can be carried out at the Sydney Opera House without needing development consent. This would allow more streamlined operations, maintenance works and events, while making sure that appropriate development requirements and standards continue to apply to mitigate any potential impacts on the Sydney Opera House and surrounding areas.

Many of the proposed changes respond directly to requests from the Sydney Opera House Trust, which is seeking a more streamlined planning pathway for minor works, including routine maintenance, event setup, and other activities.

Note: While the EHC SEPP facilitates the development and use of the Sydney Opera House site, it is not the only legislation that governs operations. Other legislation, guidelines, strategies, policies and plans also play a role in how the site is developed, managed and operated.

4.5.2 Proposed amendments to the EHC SEPP

Table 2 details the proposed amendments to Appendix 1 of the EHC SEPP and explains the rationale for each change.

Note: The Parliamentary Counsel's Office is responsible for drafting legislation. They determine how an instrument is drafted and the language that is used in the instrument. The list of proposed amendments is subject to change during the drafting process.

Table 2: Proposed amendments to the *State Environmental Planning Policy (Precincts - Eastern Harbour City) 2021 - Appendix 1*

No.	Proposed amendment and rationale
1	Include a map of the Sydney Opera House site boundary Update Appendix 1 to include a direct link to a map, indicating the boundary of the Sydney Opera House site, to which the exempt development provisions apply. Currently, users must refer to the <i>State Environmental Planning Policy (Planning Systems) 2021</i>, Schedule 2, section 1 to find the map.
2	Add a definition of the Sydney Opera House Trust The Trust is currently referenced in the definition of Conservation Management Plan in section 2 of Appendix 1 but not defined. Add a supporting definition, consistent with the definition in the <i>Sydney Opera House Trust Act 1961</i>, which says that the Sydney Opera House Trust means the <i>Trust constituted and incorporated under the Sydney Opera House Trust Act</i>.
3	Amend the meaning of exempt development Replace the phrase “minimal environmental impact” in section 3 of Appendix 1 of the EHC SEPP with “minor impact” to align with the exempt development reference in section 1.6 of the EP&A Act. This will modernise the language used in the SEPP.
4	Add a new provision that sets out general requirements for exempt development at the Sydney Opera House Some exempt development requirements are repeated under each category in Appendix 1 of the EHC SEPP. For example, that development must not adversely affect the heritage significance of the Opera House is in several exempt categories. To reduce duplication, exempt development requirements can be consolidated under a new general requirements provision that applies to all exempt development at the site. New general requirements are also proposed to make sure that exempt development works do not impact the structural integrity of the Opera House. The general requirements would require exempt development to: • not adversely affect the heritage significance of the Opera House site • be consistent with the most current Conservation Management Plan • not affect the load-bearing capacity of any load-bearing component of a building • meet the relevant deemed-to-satisfy provisions of the <i>Building Code of Australia</i>, or if there are no relevant provisions, to be structurally adequate • not cause an existing building to contravene the <i>Building Code of Australia</i>, compromise the fire safety of the building, or affect access to any fire exit • be installed in accordance with any applicable manufacturer's specifications

No.	Proposed amendment and rationale
	remove asbestos, if required, in accordance with Code of practice: How to safely remove asbestos, published by SafeWork NSW in December 2022.
5	Remove certain heritage and view-related requirements Certain heritage-related requirements, such as works not having an adverse effect on fabric, and spaces rated “some”, “considerable” or “exceptional” significance in the Conservation Management Plan, will be removed from Appendix 1, as these are addressed under heritage legislation. A general requirement that development must not adversely affect the heritage significance of the Opera House will be retained for continuity. Requirements that certain works must not obstruct views identified as significant in the Conservation Management Plan will also be removed. These requirements are already covered by policies in the Conservation Management Plan, and the proposed new general requirements for exempt development in Appendix 1 will state that exempt development must be consistent with the Conservation Management Plan.
6	Amend section 4 to expand the scope of minor repairs Update section 4 in Appendix 1 to increase the scope of minor repairs and maintenance works, including painting and the repair or replacement of damaged, missing or deteriorated components. This change will support minor day-to-day operations and maintenance of the Sydney Opera House. Remove requirements under sections 4(2)(b) and (c) that the repairs must match the existing fabric in appearance, material and method of affixing, and the repairs must not involve damage or removal of other fabric graded “some”, “considerable” or “exceptional” significance in the Conservation Management Plan. These are heritage considerations and are more appropriately covered under the heritage framework. The proposed general requirements include that exempt works must not adversely affect the heritage significance of the Sydney Opera House and require they be consistent with the Conservation Management Plan.
7	Add a new Part to permit specified activities to proceed as development without consent at the Sydney Opera House site A new Part to Appendix 1 of the EHC SEPP will allow the following activities at the Sydney Opera House site to proceed as development without consent: - repairs and public domain works that are more than minor in nature - internal alterations and additions that do not involve changes to its external appearance - repairs and upgrades to seawalls and skirting panels. Development without consent allows works to be carried out without a development application. However, before carrying out the works, the Sydney Opera House Trust will still need to assess the environmental impacts of the proposed activity under Division 5.1, Part 5 of the EP&A Act through a Review of Environmental Factors (REF). A Division 5.1 assessment means a determining authority can assess the environmental impact of certain works that they are either carrying out themselves or approving.

No.	Proposed amendment and rationale
	The Sydney Opera House Trust will also need to consider the Department's Guidelines for Division 5.1 assessments, published in June 2022, which outline how the environmental factors are considered when undertaking Division 5.1 assessments. If the works will significantly affect the environment, then an environmental impact statement must be prepared and considered. In this case, the proposed works cannot be subject to self-determination under Division 5.1 and instead become state significant development where the Minister for Planning and Public Spaces is the consent authority. If the works affect infrastructure or services administered by a public authority or are in the water, consultation with certain public authorities, such as the local council or Transport for NSW, may also be prescribed in the EHC SEPP before the proposed works can be carried out. This proposed amendment will streamline the planning pathway for repairs and other works at the Opera House, while ensuring that the appropriate assessment is undertaken.
8	Introduce a new exempt development category for emergency works A new exempt development category will allow emergency works to be carried out on the Sydney Opera House site without planning approval. This means urgent repairs can be undertaken quickly to protect the Opera House site, its associated assets, the environment and the public. Emergency works include those in response to a sudden natural event, accident, equipment failure, structural collapse, or damage caused by vandalism, arson or a pollution incident. Emergency works would still need to meet the proposed general exempt development requirements, including not adversely affecting the Opera House site's heritage significance. The NSW Heritage Council will still need to approve any works that may have a heritage impact, unless a heritage exemption applies for the works being undertaken.
9	Update and merge section 5 - minor internal alterations and additions, and section 7 - internal works and fit out of shops, restaurants, cafes and offices Similar exempt development categories can be combined to streamline provisions. In addition, updates will allow a greater range of non-structural works to occur at the site, including the lower concourse area. As well as works related to specific referenced uses, such as telecommunications technology, this update would cover: • minor non-structural alterations • additions and fit outs • installation of equipment • change of use from one back-of-house area to another back-of-house area • alteration or addition to address work health and safety requirements or to provide access for people with a disability. It is proposed the following requirements be applied to this new category of exempt development:

No.	Proposed amendment and rationale
	- the proposed new general exempt development requirements - the development must not involve significant changes to the external appearance of the building - the development must maintain maximum public access - the development must not increase the gross floor area or patron capacity at shops, cafes and restaurants on the lower concourse. The proposed amendment will create a more cohesive and simplified SEPP and streamline minor alterations at the Sydney Opera House.
10	Amend section 6 - minor building works related to permanent and temporary security arrangements Update to allow a broader range of security-related works to be carried out as exempt development. This includes allowing security works identified by a State or Commonwealth security agency, by recognised security consultants commissioned by the Sydney Opera House, or the NSW Police Force. Relevant requirements under section 6 will continue to apply to make sure that the security-related works are minor in nature.
11	Amend section 8 - minor public domain works Update this exempt development category to allow a greater range of minor public domain works at the Sydney Opera House, including adding new paving, signage that provides information about the Opera House, and scaffolding and hoarding associated with exempt development works. These works are minor and will streamline day-to-day operations at the Sydney Opera House. Currently, different types of signage are provided for under various provisions of Appendix 1 of the EHC SEPP (for example, wayfinding signage is in section 8 and signage related to advertising SOH events is in section 10, whereas temporary signage related to temporary events is in section 15). Options to restructure signage provisions to contain similar categories of works in a single provision are being considered.
12	Amend section 9 - installation of minor structures ancillary to the use of the Sydney Opera House It is proposed to modernise and update this exempt development category by permitting the installation of minor structures ancillary to the use of the Sydney Opera House, including audiovisual displays, merchandising, ticketing and banking services related or connected to the promotion of performances and sponsors. All current development requirements under this section (except section 9(2)(d)) will continue to apply to make sure works do not adversely impact the heritage significance or amenity of the Sydney Opera House.
13	Update and merge section 10 - signage associated with shops, cafes, restaurants and offices, and signage for the purpose of advertising events within Sydney Opera House and section 15 - erection of temporary signage ancillary to the temporary use of a public space for community events and minimal impact events Update sections 10 and 15, and consider grouping signage provisions in a single clause, to support signage as exempt development.

No.	Proposed amendment and rationale
	The following development standards will ensure signage for advertising events, and signage for tenancies, does not adversely impact the heritage significance and amenity of the Sydney Opera House: • retain existing requirement under section 10(2)(a) that the signage is non-intrusive, sections 10(2)(b) and (c) restricting changes to the size and location of existing signage and for new signage to be consistent with existing adjoining tenancy signage • the removal of non-temporary signage can only occur if the signage is identified as intrusive or of low significance • any temporary signage must not be associated with general advertising that is not related to the Sydney Opera House event, activation, performance or sponsor • the proposed new general exempt development requirements. Currently, different types of signage are provided for under multiple provisions of Appendix 1 of the EHC SEPP (for example, wayfinding signage is contained in section 8 and signage related to advertising SOH events is contained section 10, whereas temporary signage related to temporary events is in section 15). Options to restructure signage provisions to contain similar categories of works in a single provision are being considered.
14	Amend section 11 - temporary use of the Sydney Opera House to project fireworks or make broadcast Amend section 11 to allow the use of the Opera House shells for lighting displays to occur as exempt development. This amendment will clarify the type of activities permitted (fireworks and light displays on the Opera House shells) and remove duplication. Remove the requirement in section 11(2)(c) that states the use must only be for limited periods as timeframe limitations are already covered by section 11(2)(d), which states that the use must be of brief duration and non-commercial in nature.
15	Amend and merge section 12 (temporary use of public space for community events), section 13 (temporary use of public space for minimal impact events related to the primary function of Sydney Opera House), and section 14 (erection of temporary building ancillary to the temporary use of a public space for minimal impact events) <u>Proposed approach</u> Sections 12, 13, and 14, which all provide for events, are proposed to be consolidated into a single minor impact outdoor events category to reduce duplication and improve the useability of Appendix 1. In addition, the amendments introduce more flexible settings for events to better support cultural activation at the Sydney Opera House. This approach is consistent with NSW Government objectives to support events and boost the economy, arts and cultural sectors, while ensuring that any amenity impacts to nearby residential areas are appropriately managed. The new events provision will allow temporary use of public space within the Sydney Opera House site for free and paid outdoor events, performances and activations . It

No.	Proposed amendment and rationale
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also allows the installation of temporary structures or buildings that are ancillary to the event and have minimal visual impact.

Development standards

Development carried out under this section will be subject to the following requirements:

- Existing requirements from sections 12, 13, and 14 will continue to apply where relevant, including:
 - 12(2)(c) requirements around set-up and clean-up days for community events
 - 12(2)(f) and 13(2)(e) lighting must not cause adverse impact
 - 12(2)(g) community events must not include staging of private or commercial functions
 - 14(2)(a) temporary buildings must be confined to the event site.
- Paid events will be permitted for up to 120 days per year inclusive of set-up and clean-up days (by amending sections 13(2)(a) and (d)). This replaces the current limit for paid events of 40 days in any 12-month period, inclusive of set-up and clean-up days. This allows the planning for events to be tailored to operational needs, i.e. where it might be necessary to use more days for clean-up and set-up to respond to weather conditions, or alternatively, increase the number of days for longer running events. The time that temporary buildings may remain in place (current under 14(2)(g)) will be updated to align with this change. Free community events will continue to be unlimited.
- Event hours (excluding amplified music) will be permitted between 6am and midnight on any day, except New Year's Eve, when events may continue until 2am the following day (currently provided for under sections 12(2)(a) and (b) and 13(2)(b)). Set-up/clean-up may occur between 6 am and 12:30 am. Up to four events per year may start after 3:30 am and run until 2 am, such as the ANZAC Day Dawn event or the running festival (but with amplified music only allowed from 6am).
- Amplified music will be permitted between 8am and midnight on any day of the week (under sections 12(2)(e) and 13(2)(b)).
- The maximum number of event attendees at any one time under 13(2)(c) will be increased from 5,000 to 6,000. This is supported by a capacity assessment undertaken by Arup in 2021 on behalf of the Sydney Opera House Trust which confirmed that 6,000 people is a safe capacity limit for the Forecourt, the largest outdoor venue at the Opera House. The assessment was based on digital modelling to evaluate emergency evacuation procedures for three scenarios: New Year's Eve, a general Forecourt event and a Northern Broadwalk event. The Arup assessment notes that the capacity limits provided are contingent on event-specific risk assessment procedures and fire safety and crowd management processes that are consistent with international and best practice standards. These processes and procedures are included in the Sydney Opera House Trust's Outdoor Event Guide. For more information on the Arup study, please contact the Opera House directly.

No.	Proposed amendment and rationale
	• Paid events must be related to the function of the Sydney Opera House as a venue for arts and culture in its broadest sense. The current provision links minimal impact events to the primary function of the Opera House as a performing arts centre. • Events must maintain as much public access to the adjoining public domain or lower concourse as possible. • All development must comply with the proposed new general requirements for exempt development.
16	Updated approach to managing outdoor event noise It is proposed to update the way outdoor event noise is managed, measured and monitored under the exempt development framework. <u>Current controls</u> Sections 12(2)(d) and 13(2)(f) currently regulate noise from outdoor events by setting limits at off-site locations including Beulah Street Wharf, Cremorne Wharf, Bennelong Apartments and Dawes Point Park. These limits require: • community events to not exceed background noise levels at the off-site locations, and • minimal impact events to comply with maximum noise levels of: ○ L_{Amax} 70 dB(A) and L_{Cmax} 90 dB(C) from Friday to Saturday, and ○ L_{Amax} 65 dB(A) and L_{Cmax} 85 dB(C) from Sunday to Thursday. These controls are intended to limit impacts on nearby residents and other noise-sensitive uses. <u>Review findings</u> The Sydney Opera House engaged Auditoria to prepare a <i>SEPP Events Sound Management Review</i>. This review found that the current sound provisions are outdated and that the existing off-site monitoring locations under sections 12 and 13 do not reliably measure noise from Opera House events. This is due to the distance from the site, local topography and modern sound system technology, which means recorded noise often reflects background sources such as traffic, boats, and local activity, rather than event noise. Auditoria recommended a new, more effective approach to managing sound from outdoor events. <u>Proposed changes</u> Under the proposal: • Sections 12(2)(d) and 13(2)(f) be updated to replace instantaneous maximum noise measurements (L_{max}) with a 5-minute average (Leq-5min). ○ For events with amplified music, noise limits will be Leq-5min 67 dB(A) and Leq-5min 82 dB(C) on any day. These limits are equivalent to the current Friday to Saturday noise maximum levels under section 13(2)(f) ○ Applying these limits consistently across the week removes the distinction between weekdays and weekends.

No.	Proposed amendment and rationale
	- For events without amplified music, or where the amplified music is incidental, event noise must continue to not exceed background noise levels, consistent with section 12(2)(d). - Noise monitoring locations will be located within the Sydney Opera House site, rather than at off-site receivers. The precise location(s) will be guided by the <i>Sound Management Plan for SEPP Events</i> prepared by Auditoria. - Where monitoring is required, it may also include a roving handheld sound level meter to assess noise at nearby sensitive receivers during sound checks and events. This allows for proactive management and real-time adjustment of sound levels. <u>Rationale</u> Monitoring within the Opera House site provides a clearer and more accurate measure of noise generated by events, avoids capturing unrelated background noise, and better reflects the performance of modern sound systems. This approach improves compliance certainty, supports effective event management, and enables early intervention if noise levels approach limits. This sound management method is already used for larger outdoor events approved under the Opera House Forecourt development consent. <u>Outcomes</u> Applying consistent noise limits across all days and adopting contemporary measurement techniques will allow the Opera House to better use its outdoor spaces and deliver more flexible and diverse programming, while continuing to protect residential amenity and improve clarity around compliance. <u>Sound management plan</u> Following acceptance of the approach outlined in the <i>SEPP Event Sound Management Review</i>, a draft <i>Sound Management Plan for SEPP Events</i> has been prepared by Auditoria and reviewed by the Department. Both documents are on public exhibition with this Explanation of Intended Effect, and submissions are specifically invited on the draft Sound Management Plan. The Sound Management Plan assess potential noise impacts based on: - the location and orientation of Public Address (PA) systems, and - the PA infrastructure proposed for the event. These factors generate an overall risk score, which informs required noise management actions, such as monitoring requirements, sound system setup practices and community engagement measures. The Plan also clearly defines responsibilities for event planning and delivery and establishes processes for ongoing review and continuous improvement of outdoor event noise management.
17	Introduce a new exempt development category for filming, broadcasting and photography Introduce a new exempt development category in Appendix 1 to allow filming, broadcasting and photography at the Sydney Opera House site.

No.	Proposed amendment and rationale
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While filming can be carried out as exempt development under Subdivision 4, Division 3, Part 2 of the Codes SEPP, some of the development standards in that framework restrict minor filming activities that have minimal impact. Providing a dedicated exempt development pathway within the EHC SEPP will simplify the planning framework for these minor, short-term uses, and reduce the need to rely on multiple planning instruments for routine activities at the Opera House.

Development requirements

Development carried out under this category must meet the following requirements:

- All activities and works must be:
 - temporary, reversible and must have no physical impact on significant fabric, landscape elements and/or archaeological relics
 - managed to avoid significant interference with the neighbourhood
 - undertaken in a way that does not unreasonably restrict public access to, or use of, the adjoining public domain.
- Filming that occurs for more than two days at a location requires a Film Management Plan to be prepared at least five days prior to commencement. The Plan must include:
 - contact details of the person carrying out the filming
 - description of the filming
 - location of the filming
 - commencement and completion dates, and daily length of the filming
 - number of persons to be involved in the filming at the location
 - details of any temporary structures or equipment used at the location, or any temporary alterations, additions or building works
 - a description of any disruption to the location, public access, road network or the surrounding area and the amenity of neighbours (i.e. lighting, noise, smell, etc.), and parking arrangements
 - a copy of the public liability insurance and any approvals given by a public authority to carry out the activity.
- A copy of the Film Management Plan must be provided to any public authority on request.
- For filming exceed two days, at least 5 days prior to commencement:
 - notification must be provided to any public authority whose services of infrastructure may be affected, and
 - notification must be given to neighbours within a 50-metre radius of the Sydney Opera House site.
 - Signage must be displayed for the duration of the filming that explains the nature of the activity. The notification must include the contact details of the person responsible for the filming, details of any expected disruption to the site or its surrounding area or neighbour amenity, and commencement and completion dates including daily filming hours.

The proposed new general requirements for exempt development will also apply.

4.6 Consultation questions

The Department welcomes your feedback on the proposals outlined in this chapter about the **Sydney Opera House**, as well as on the content in the draft Sound Management Plan.

We are also interested in what you think about the following questions:

43. Do you support the proposed amendments to the EHC SEPP described in this section? Are there any changes you would like to see in the proposals?

44. An unlimited number of free community events and up to 40 days a year of minimal impact events where an entry fee may be charged are currently permitted as exempt development at the Sydney Opera House under section 13(2)(a) in Appendix 1 of the EHC SEPP. Should there continue to be a cap on paid events? If so, how many event days should be allowed, and how many of these should be for paid events?

45. Do you support the proposal for paid event days and set-up and clean-up days being a maximum of 120 days per year, as outlined in Item 15 of Table 2?

46. Do you support the contents of the draft Sound Management Plan, including how events are classified, how noise is managed and how community engagement is proposed to be undertaken? Is there anything missing from the Plan?

Your feedback will provide us with a better understanding of the views of the community and will help us in finalising updates to the planning framework for the Sydney Opera House.

5 Next steps

The Department welcomes all feedback on the proposals outlined in this explanation of intended effect and on how they might contribute to the broader objective of supporting events, entertainment and cultural activities in key precincts.

After the exhibition period closes, the Department will review all feedback received and consider the suggestions and matters raised.

Following consultation and consideration of feedback, the Department will finalise the proposals and submit recommendations to the Minister for Planning and Public Spaces for final approval. Once ministerial approval is received, the NSW Government will finalise changes.

Changes related to Special Entertainment Precincts are likely to be made later this year through a self-repealing State Environmental Planning Policy that makes amendments to existing legislation under the EP&A Act.

Before finalising proposals for the Sydney Opera House and Walsh Bay, the Department will also consult with key stakeholders, including the Sydney Opera House Trust.

How to give feedback

To make a submission, complete the online form or upload your submission to the NSW Planning Portal.

For any questions about the EIE, please contact us at economic.policy@dpie.nsw.gov.au.

6 Consolidated list of consultation questions

NB: These questions are things that we are considering in the policy design. You do not need to answer them to make a submission.

Special Entertainment Precincts

General Questions

1. Do you support all the new proposals below being automatically included in a SEP, or should councils be able to opt in to each proposal? Please explain why.
2. Should the proposals' development standards be the same across all SEPs or be tailored by each council (where possible)? Please explain why.

Allow change of use from shop to a licensed entertainment facility

3. Are the existing Codes SEPP Category 5 change of use measures for small arts venues known about, would guidance help potential users or are more changes needed?
4. Is the sale of alcohol needed to support small arts, music venues and entertainment-related uses as part of your business or in the local SEP?
5. Do you support permitting shops to change to licensed entertainment premises without a DA in Special Entertainment Precincts?
6. Allowing this change would make it easier for licensed premises to establish in SEPs. What strategies will councils use to maintain local services and retail options in SEPs while encouraging flexible change of use? For example, for SEPs located on high streets and centres.
7. Could this outcome be better implemented individually by councils through the planning proposal process they use to establish the SEP?
8. If controls are in the planning system, liquor licence and PMP will businesses, councils, agencies and residents easily be able to understand what is permitted? What can we do to improve this?
9. Are there any other factors we should consider?

Allow a change of use from office premises to an entertainment facility

10. Is vacant commercial space located in areas where more vibrancy is desired, attractive and affordable to artists, performers and audiences? Are these spaces suitable, or is purpose-built space needed?
11. Is a planning solution likely to have a significant impact on uptake, or are other matters more influential, such as leasing costs or tax offsets for property owners?
12. Will a streamlined pathway enabling more entertainment uses make sure adequate commercial floorspace is retained, or will allowing a change of use in part of a building potentially impact the viability of other office / commercial tenants?

Allow temporary arts, cultural, and entertainment uses in commercial buildings as exempt development.

13. Do you support an exempt development pathway for temporary arts, cultural, and entertainment uses in commercial buildings? Please explain why or why not.
14. Would it be preferable to allow councils to continue to enable temporary uses as part of local planning efforts, rather than a new pathway within SEPs?
15. Does this proposal appeal to commercial building owners / tenants? Are there any matters that we should consider, such as public access to otherwise restricted spaces?
16. What temporary activities should be allowed? E.g. galleries, art studios, performance spaces.
17. What would sensible development standards look like?
18. What period would be suitable for a 'temporary' pop-up use? E.g. a maximum number of consecutive days and/or number of days per year?

Streamline rooftop dining approvals associated with existing food and drink premises or artisan food and drink industry.

19. Are there engineering and safety factors that should always require rooftop activation to be assessed through a development application? Could non-discretionary development standards cover some assessment matters to improve consistency and facilitate activation?
20. Could public safety risks and amenity be properly managed through carefully designed development standards, or are the considerations unique to each building and location?
21. If non-discretionary development standards were to be introduced, what items must be considered? Alternatively, could improvements be made to the development assessment process, such as guidance for applicants and councils to facilitate the fair merit assessment of rooftop uses?
22. Could other mechanisms help to make sure fair merit assessment of rooftop proposals occurs? What would these include?

Allow town halls and other community facilities to be used for arts and cultural events

23. Is there still a need for planning changes following the recent changes made to the Codes SEPP to activate town halls? If so, what is required?
24. Are council-owned town halls or community facilities limited by building or heritage constraints that would preclude them from using the exempt pathway? If so, please note the town halls or community facilities affected, and the specific BCA non-compliances or heritage issues limiting their use as entertainment facilities.
25. Is funding or another issue the main barrier to activating these facilities? For example, staffing venues, acoustic controls, toilet facilities or venue accessibility upgrades? Please specify which.

Allow private carparks to be used for temporary, arts, cultural, or live entertainment events as exempt development

26. Are there any privately owned open-air carparks in your proposed SEPs that could host arts, cultural or live entertainment? Are these carparks linked to approved uses that have conditions of consent that require parking to be provided?
27. What development standards would be needed to allow these carparks to be used? Should there be limits on the size of space used, or frequency and timing of events, etc.?

28. How could carparking and traffic impacts be managed, to make sure transport and parking services are available in a precinct when temporary uses are occurring at parking facilities?
29. Would activations in private open-air carparks in SEPs be able to manage sound impacts in line with the sound controls in place for the SEP?
30. How could other matters, such as the provisions of adequate sanitary facilities to support the activations, be addressed by development standards?

Review restrictions on the size of stages and platforms constructed or installed for private events under exempt and complying development

31. Are the Code SEPP's stage size and approval process a key barrier to events in NSW?
32. What size stages are event organisers seeking to use?
33. Should the limit be increased or removed? If increased, is there an upper size threshold (in square metres) that would be appropriate? Can safety risks be managed without an upper limit on stage and platform sizes – for example, via the Australian Standard for load or installation?
34. Stage size can sometimes be a proxy for other impacts, such as crowd size or noise. Would other development standards be required to address such impacts, or can they be adequately managed through the PMP? Should there be a threshold?
35. Would a complying pathway for private events sufficiently meet the needs of event organisers while mitigating public safety risks?

Allow equipment associated with temporary events on private land as exempt or complying development, such as audio-visual systems, portable toilets, lighting towers, barriers, catering units, large screens and camping equipment

36. If new provisions are needed for event infrastructure, what would suitable development standards look like, e.g. size, weight, number of items and placement restrictions? Should they be site-specific, and should there be a maximum threshold?
37. Should councils include exempt or complying criteria for private event structures as an LEP amendment for specific SEPs, given that this could be applied to events of different sizes and scales? How would the PMP interact with local approvals?
38. If an approved event wants to grow and change over a period of years, what is the best process to manage the larger structures and different impacts?
39. The current exempt standards do not allow overnight camping, as this should be properly assessed and managed for public amenity and safety, for example, if the site needed to be evacuated and to manage traffic and parking from attendees. Could this be managed through a SEP's PMP for different event types and locations?

Walsh Bay

40. What port or maritime functions should be in the EHC SEPP for Walsh Bay?
41. Are the aims, objectives and matters for consideration currently in the EHC SEPP still relevant? Which can be removed or updated e.g. noise, hours of operation and access?
42. How can commercial, creative and cultural activities be better considered in any proposed changes to the EHC SEPP?

Sydney Opera House

43. Do you support the proposed amendments to the EHC SEPP described in this section? Are there any changes you would like to see in the proposals?

44. An unlimited number of free community events and up to 40 days a year of minimal impact events where an entry fee may be charged are currently permitted as exempt development at the Sydney Opera House under section 13(2)(a) in Appendix 1 of the EHC SEPP. Should there continue to be a cap on paid events? If so, how many event days should be allowed, and how many of these should be for paid events?

45. Do you support the proposal for paid event days and set-up and clean-up days being a maximum of 120 days per year, as outlined in Item 15 of Table 2?

46. Do you support the contents of the draft Sound Management Plan, including how events are classified, how noise is managed and how community engagement is proposed to be undertaken? Is there anything missing from the Plan?

Department of Planning, Housing and Infrastructure

Locked Bag 5022
Parramatta NSW 2124
W: dphi.nsw.gov.au
