

PUBLIC CONSULTATION DRAFT

**MANAGEMENT PLAN
FOR
THE SYDNEY OPERA HOUSE**

JULY 2005

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Appendix A: “Sydney Opera House: A Revised Plan for the Conservation of the Sydney Opera House and its Site” (3rd edition 2003)

This document provides an understanding of the place and its history. It also assesses the significance of the place, and provides conservation policies based on the identified heritage values of the Sydney Opera House.

Appendix B: Utzon Design Principles (2002)

This document provides statements and design principles from the architect of the Sydney Opera House, Jørn Utzon, for best practice to guide the future management and development of the Sydney Opera House.

Appendix C: Statement of the National Heritage values of the Sydney Opera House

This document provides a detailed statement of the National Heritage values of the Sydney Opera House as included on the National Heritage List.

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1. INTRODUCTION

This document provides information about the National Heritage values and likely World Heritage values of the Sydney Opera House, as well as the statutory and management framework that will ensure that the National Heritage and likely World Heritage values of the site are protected and conserved. This document also provides the detail necessary to meet requirements for accreditation by the Australian Government Minister for the Environment and Heritage under the *Environment Protection and Biodiversity Conservation Act 1999*.

This Management Plan has been prepared for accreditation by the Australian Government Minister for the Environment and Heritage under section 46 of the *Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)*, for the purposes of a bilateral agreement between the Australian Government and the State of New South Wales to:

- protect and conserve the World and National Heritage values of the Sydney Opera House;
- to minimise duplication in the environmental assessment and approval of actions that may impact on the National and World Heritage values of the Sydney Opera House;
- to ensure there will be adequate environmental assessment of actions that may impact upon the National and World Heritage values of the Sydney Opera House; and
- to ensure that actions that will have unacceptable or unsustainable impacts on the World and National Heritage values of the Sydney Opera House will not be approved.

In addition to the requirements set out in section 46 of the EPBC Act, this plan has been prepared in accordance with:

- Sections 51 and 51A of the EPBC Act ('Agreements relating to declared World Heritage properties' and 'Agreements relating to National Heritage places'); and
- Regulation [new regulation]¹ ('Criteria for accreditation of management plans for World Heritage properties and National Heritage places') of the *Environment Protection and Biodiversity Conservation Regulations 2000 (EPBC Regulations)*; and
- the 'Australian World Heritage management principles' and 'National Heritage management principles' set out in Schedules 5 and 5B of the EPBC Regulations.

¹ (Editorial Note: Section 46 of the EPBC Act states that "the management plan and the law of the state...under which the management plan is in force (or is to be in force) [must] meet the criteria prescribed by the regulations". The Australian Government regulations have not yet been made. Therefore this plan is only an indicative draft based on assumptions of what the criteria may comprise).

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The terms of this Management Plan are given legal effect in New South Wales through clause x of the *State Environmental Planning Policy (State Significant Development) 2005*. The Minister(s) responsible for administering the New South Wales *Sydney Opera House Act 1960*, the *Sydney Opera House Trust Act 1961*, the *Sydney Opera House Trust Amendment Act 2004*, the *Environmental Planning and Assessment Act 1979* and the *Heritage Act 1977* are bound to comply with the terms of this Management Plan.²

The plan as a whole consists of this Management Plan, the existing Conservation Management Plan—“*Sydney Opera House: A Revised Plan for the Conservation of the Sydney Opera House and its Site*” (3rd edition 2003) (CMP) and the *Utzon Design Principles* (2002), found in Appendix A and B to this Management Plan. The CMP and the *Utzon Design Principles* are an integral part of this Management Plan.

The CMP and the *Utzon Design Guidelines* were commissioned by The Sydney Opera House Trust as:

“an essential part of its custodianship of one of the world’s great heritage buildings, which has the structural characteristics to serve its purpose for years to come and has to be sensitively managed to preserve its core values”.

(From the introduction to the CMP by Joseph Skrzynski, Chairman, Sydney Opera House Trust 2003).

The CMP and the *Utzon Design Principles* contain detailed guiding conservation policies based on the identified heritage values of the Sydney Opera House, and have been endorsed by the NSW Heritage Council as guiding management documents for its considerations of all Sydney Opera House matters. In combination with the CMP and the *Utzon Design Principles*, this Management Plan seeks to ensure that the State, National and World Heritage values of the Sydney Opera House are fully protected and conserved.

The purpose of this Management Plan is to ensure that the Sydney Opera House is regulated and managed to protect its National and World Heritage values, and to ensure that Australia meets its obligations under the World Heritage Convention. The environmental impact assessment and approval regime set out in this Management Plan will protect the National and World Heritage values of the Sydney Opera House to the same extent as the protection afforded under the EPBC Act.

² (Editorial Note: This paragraph is subject to change depending on the final wording of the SEPP amendment. The plan will be amended to reflect any necessary changes prior to being finalised.)

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2. THE PLACE

The Sydney Opera House is located in Lot 5 in Deposited Plan 775888 at Bennelong Point, City of Sydney, Parish of St. James, County of Cumberland, Title Diagram: DP 775888 and Lot 4 in Deposited 787933 at Circular Quay East, City of Sydney, Parish of St. James, County of Cumberland, Title Diagram: DP 787933.

Further information about the place, including information about its location, physical features, condition, historical context and current uses is found in the CMP.

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3. WORLD HERITAGE VALUES³

The World Heritage values of the property are:

- (i) a masterpiece of human creative genius; and
- (ii) an important interchange of human values, over a span of time or within a cultural area of the world, on developments in architecture or technology, monumental arts, town-planning or landscape design.

³ This management plan has been prepared in preparation for the proposed nomination of the Sydney Opera House to the World Heritage List. The plan is based on the World Heritage values for which the site is proposed to be nominated; it is assumed that these are the World Heritage values for which the site will be inscribed.

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4. NATIONAL HERITAGE VALUES

The summary statement of significance below outlines, in a plain and succinct form, what is significant about the Sydney Opera House and briefly describes what are its outstanding heritage values to the nation. Appendix C provides the full statutory statement of National Heritage values for the Sydney Opera House entry on the National Heritage List.

Summary Statement of Significance

The Sydney Opera House, constructed between 1957 and 1973, is a masterpiece of modern architectural design, engineering and construction technology in Australia. It exhibits the creative genius of its designer, the Danish architect Jørn Utzon and the contributions to its successful completion by the engineering firm Ove Arup and Partners, the building contractors M.R. Hornibrook, and the architects Hall, Todd and Littlemore. It is an exceptional creative and technical achievement in the national history of building design and construction in Australia.

Since its completion the Sydney Opera House has attracted world-wide acclaim for its distinctive design, enhanced by its prominent location on Bennelong Point within a superb harbour setting. With its soaring white roof shells set above a massive podium, the Sydney Opera House is a monumental urban sculpture, internationally acclaimed as an architectural icon of the twentieth century. Its many national and international awards reflect its pivotal place in the national story of creative and technical achievement in Australia. The challenges involved in executing Utzon's design inspired innovative technical and creative solutions that were groundbreaking in the history of architectural design and building construction in Australia, particularly the roof shells that were based on the geometry of the sphere and demonstrated the extraordinary creative potential of the assembly of prefabricated, repeated components. The interior spaces also reflect the creative genius of Utzon and his successors, Todd, Hall and Littlemore, who completed the building after Utzon's departure from the project in 1966.

The Sydney Opera House is the most widely recognised building in Australia, and is cherished as a national icon and world-class performing arts centre. It represents an enduring symbol of modern Sydney and Australia, both nationally and internationally, reflecting changing social attitudes towards Australian cultural life in the decades after World War II. The Sydney Opera House has played a seminal role in the development of Australia's performing arts, enhancing the cultural vitality of the nation. It continually attracts nationally and internationally acclaimed performers, and is a mecca for visitors from around Australia and overseas.

The peninsula on which the Sydney Opera House now stands has a special association with Bennelong, an Aboriginal man who became a prominent and influential figure in the early colony and played a significant role in mediating interactions between Aboriginal people and early settlers.

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5. STATUTORY FRAMEWORK

The National and World Heritage values of the Sydney Opera House will be protected by the New South Wales planning and heritage statutory frameworks.

Approval of actions in relation to the Sydney Opera House may only be made in accordance with this plan.

a. Planning Framework

The *Environmental Planning and Assessment Act 1979* establishes the environmental and land use planning system for New South Wales, and encourages the proper management, development and conservation of natural resources and the built environment. The Act provides that any proposed development complies with relevant planning controls and, according to their nature and scale, ensure that they are environmentally and socially sustainable. The encouragement of ecologically sustainable development, including application of the precautionary principle, is included in the Objects of the Act.

The Act allows for the creation of environmental planning instruments such as State Environment Planning Policies (SEPP's) and Regional Environmental Plans (REP's). These planning instruments set out the planning provisions and rules that apply to areas that the Minister for Planning and Infrastructure considers are of state or regional significance. Two such planning instruments apply to the Sydney Opera House site, and are outlined below.

Schedule 3 of the *State Environment Planning Policy (State Significant Development) 2005* lists the Sydney Opera House as a 'State Significant Site'. All development on the site (other than that specified as exempt under Schedule 3) is deemed to be 'state significant development' and the consent of the Minister for Infrastructure and Planning is required before the development can proceed.

Schedule 3 also includes a list of *specified minor works* (which meet performance criteria and are deemed to be of minimal environmental impact) that will not need development consent. The list of specified minor works is aligned with the *site-specific exemptions* gazetted in 2003 when the Sydney Opera House was listed on the NSW State Heritage Register under the *Heritage Act 1977*. The exemptions ensure consistency of implementation between the requirements of the *Environmental Planning and Assessment Act 1979* and the *Heritage Act 1977*. More information about the site-specific exemptions can be found in the Heritage Framework section below.

The *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*⁴ includes the Sydney Opera House in an area called the Foreshores and

⁴ (Editorial Note: It is anticipated that the Sydney Regional Environment Plan will be in force before the bilateral agreement is signed).

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Waterways Area. The REP lists a number of matters to be considered by the Minister when making a development assessment decision under the Act. These matters include biodiversity, ecology and environment protection, public access to foreshores and waterways, maintenance of a working waterfront, interrelationship of waterways and foreshores uses, foreshores and waterways scenic quality, and the maintenance, protection and enhancement of views. This includes the full heritage model provisions for heritage items, including the Sydney Opera House.

In the event that the Sydney Opera House is inscribed on the World Heritage List, a buffer zone will come into force by an amendment to the Regional Environmental Plan. The buffer zone around the Sydney Opera House will be subject to additional planning rules and provisions aimed at further protecting the World Heritage values of the place. The Minister for Infrastructure and Planning will be required to ensure that the impacts of any development within the buffer zone:

- does not detract from the place as a cultural masterpiece of human creative genius;
- does not detract from the visual prominence of the Sydney Opera House;
- minimises the impact on views and vistas to and from the Sydney Opera House; and
- maintains, protects and enhances views to the Sydney Opera House,

before granting consent under the *Environmental Planning and Assessment Act 1979*.⁵

b. Heritage Framework

On 3 December 2003, the New South Wales Minister Assisting the Minister for Infrastructure and Planning (Planning Administration) listed the Sydney Opera House on the State Heritage Register under the *Heritage Act 1977*, following consideration of the recommendations of the Heritage Council of New South Wales. Under subsection 57(1) of the *Heritage Act 1977*, listing on the State Heritage Register means that actions affecting the place require the approval of the Heritage Council of New South Wales prior to being undertaken, unless an exemption has been granted by the Minister administering the *Heritage Act 1977* on the recommendation of the Heritage Council under subsection 57(2). This is in addition to any other approvals required in relation to the action.

The Heritage Council of New South Wales consists of 15 members, 12 of whom are appointed by the Minister administering the *Heritage Act 1977*. The Heritage Council's membership reflects a cross-section of community, government and conservation expertise such as the National Trust of Australia. The Heritage Council of New South Wales carries out functions

⁵ The terms of the REP amendment are subject to change.

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under the *Heritage Act 1977* and receives advice and administrative support from the New South Wales Heritage Office.

In addition to acting as the approval body for items listed on the State Heritage Register, the functions of the Heritage Council include:

- to make recommendations to the Minister regarding the listing of places of State Heritage significance on the State Heritage Register; and
- to make recommendations to the Minister related to the taking of measures for or with respect to the conservation, exhibition or display of, the provision of access to, and the publication of information concerning items of environmental heritage.

The Heritage Council formally endorsed the CMP and *Utzon Design Principles* at the time the Sydney Opera House was listed on the State Heritage Register as the guiding policies for the ongoing conservation of the Sydney Opera House, and to assist in the assessment of applications for works and for the purposes of granting exemptions from approvals for certain activities consistent with this policy under subsections 57(1) and (2) of the *Heritage Act 1977*. At the time of listing on the State Heritage Register, a number of site-specific exemptions were gazetted under section 57(2) of the *Heritage Act 1977* by the New South Wales Minister administering the Act, based on the advice of the New South Wales Heritage Council. These exemptions enable day-to-day activities with no heritage impact that comply with specific policies in the CMP and *Utzon Design Principles* to be undertaken without Heritage Council approval, and include for example:

- specified uses of external spaces for temporary events;
- the temporary use of the roof/shells as a medium to project broadcasts or fireworks or colour; and
- all ongoing maintenance, repainting and repairs identified in and consistent with the CMP and which do not impact on significant fabric identified in the CMP.

The Heritage Council considers the CMP to include comprehensive policies which will guide the long-term conservation of the National and World Heritage values of the Sydney Opera House, and that these site-specific exemptions, granted in accordance with the policies set out in the CMP, will not impact on the National and World Heritage values of the Sydney Opera House.

The *Heritage Act 1977* also sets mandatory minimum standards for the ongoing maintenance and repair of places listed on the State Heritage Register (see sections 118-122 of the *Heritage Act*). Ministerial Principles and statutory guidelines issued by the NSW Heritage Council which set best practice heritage management approaches, including standards for the day to day care of the place also apply to the Sydney Opera House. Management

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arrangements for the Sydney Opera House are discussed in more detail below.

This statutory framework regulating the Sydney Opera House ensures that any act which may have a potential effect on the State, National or World Heritage values of the place is thoroughly assessed and scrutinised before any approval is granted. The framework ensures that the State, National and World Heritage Values of the Sydney Opera House are conserved and protected.

c. Assessment and Approvals Processes

Any proposed development on the Sydney Opera House site will require two statutory approvals under the *Environmental Planning and Assessment Act 1979* and the *Heritage Act 1977* before works may commence. The granting of one approval is not dependant on the granting of the other. The assessment and approval process for each approval is described below.

(i) Assessment and Approval under the Environmental Planning and Assessment Act 1979

As the Sydney Opera House is listed as a State Significant Site under Schedule 3 of the *State Environmental Planning Policy (State Significant Development) 2005*, any proposed development on the Sydney Opera House site will require the approval of the Minister administering the *Environmental Planning and Assessment Act 1979*. Such proposals will be subject to the assessment and approval process outlined in Part 3A of the *Environmental Planning and Assessment Act 1979*, and in accordance with this management plan.⁶

Under Part 3A of the *Environmental Planning and Assessment Act 1979*, once a development proposal for the Sydney Opera House site has been submitted, the Act provides for the Minister to publish environmental assessment guidelines in the New South Wales Government Gazette, in consultation with the Chief Executive Officers of the relevant public authorities (subsection 75F(1)).

The Director-General of the Department of Infrastructure, Planning and Natural Resources will then prepare environmental assessment requirements based on the Minister's guidelines and in consultation with the relevant New South Wales public authorities, including, in this case, the New South Wales Heritage Office (subsections 75F(2) and (4)).

The Director-General will notify the proponent of the requirements and require an environmental assessment to be prepared by or on behalf of the proponent in the form approved (subsections 75F(3) and (5)). The assessment

⁶ NSW anticipates that Part 3A will commence in late 2005. The NSW Minister administering the EP&A Act will notify the Australian Government Minister for the Environment and Heritage of the commencement date when it is known.

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requirements may require the proponent to include a statement of commitments the proponent is prepared to make for environmental management and mitigation measures on the site (subsection 75F(6)).

In accordance with this management plan, any assessment guidelines or requirements prepared must also seek to ensure that the assessment contains an assessment of all the relevant impacts that the development has, will have or is likely to have on the National and World Heritage values of the Sydney Opera House.

An independent hearing and assessment panel may be constituted by the Minister, under section 75G of the Act, to assess any aspect of the development referred to it by the Minister. The panel will comprise of independent technical experts or a panel of officers representing the Department (not having regulatory functions in connection with the development) and other relevant public authorities. For the purposes of an assessment, the panel may receive or hear submissions from interested persons and submit a report to the Director-General.

The Minister may also establish a Commission of Inquiry on all or any relevant matters under section 119 of the Act. The Commission of Inquiry will report its findings and recommendations to the Minister (or to the Director-General, as the case may be), and make public those findings and recommendations in accordance with subsection 119(6).

Under section 75H of the Act, the proponent is to submit the required environmental assessment to the Director-General. If the Director-General considers that the environmental assessment does not adequately address the environmental assessment requirements, the Director-General may require the proponent to submit a revised environmental assessment.

Once accepted, the Director-General must make the environmental assessment publicly available for at least 30 days (subsection 75H (3), and make adequate information available to the public (including affected groups with particular communication needs). During that period, any person may make a written submission to the Director-General concerning the matter (subsection 75H(4)).

In accordance with this management plan, the invitation to comment will be published on a website approved by the Department of Infrastructure, Planning and Natural Resources and the New South Wales Heritage Office and linked to the Department of Environment and Heritage website; and in a newspaper circulating generally in each State and self-governing Territory. The invitation may also be published on the websites of the Department of Infrastructure, Planning and Natural Resources and the New South Wales Heritage Office. The invitation will advise: the nature of the proposed development; its location; the name of the proponent; the matters of National and World Heritage significance to be covered by the assessment; how the relevant documents may be obtained; and the deadline for public comments.

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Based on the public comments received, the Director-General may then require the proponent to provide:

- a response to the submissions;
- a preferred project report that outlines any proposed changes to the project to minimise its environmental impact; and
- any revised statement of commitments.

Once all of the above processes are complete, the Director-General will prepare a report for the Minister for the purposes of considering the development application. Under section 75I, and in accordance with this management plan, the Director-General's report must include:

- a copy of the proponents' environmental assessment, and any preferred project report;
- any advice provided by public authorities on the development;
- a copy of the report of any independent hearing and assessment panel;
- a copy of the State Environmental Planning Policy that governs the carrying out of the project;
- any environmental assessment carried out by the Director-General; and
- a consideration of the impacts of the development on the National and World Heritage values of the Sydney Opera House.

The Minister will then consider whether or not to approve the development. The Minister must consider (subsection 75J(2)):

- the Director-General's report;
- the advice of the Minister administering the *Sydney Opera House Act 1960*;
- any findings or recommendations of a Commission of Inquiry held under section 119 of the *Environmental Planning and Assessment Act 1979*; and

Under subsection 75J(4), the Minister may approve the development with such modifications or on such conditions as the Minister may determine.

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(ii) **Assessment and Approval under the Heritage Act 1977**

Development on the Sydney Opera House site assessed under Part 3A of the *Environmental Planning and Assessment Act 1979* will also require approval under Part 4 of the *Heritage Act 1977*. This approval is granted by the Heritage Council and is sought after the Minister's approval under Part 3A of the *Environmental Planning and Assessment Act 1979*.⁷

In accordance with section 57 of the *Heritage Act 1977*, the formal approval of the Heritage Council will be required for any activities which purport to alter, damage, demolish or develop the Sydney Opera House site.

Applications for approval under Part 4 of the *Heritage Act* must be adequately documented. The proponent, in accordance with *Heritage Regulations 1999* and the Heritage Council Guidelines, must provide documentation including all drawings and documents necessary to describe the proposal, a heritage impact statement, and any other supporting documentation. The Statement of Heritage Impact must analyse the proposal in terms of the impact of the proposal on the heritage significance of the site, and the CMP. The Statement must show whether the impact of the proposal will compromise the heritage significance of the Sydney Opera House. In accordance with this plan, the Statement must also include a consideration of the way in which the National and World Heritage values (if any) are likely to be affected.

Where an application for approval is made and the Heritage Council is of the opinion that, if approved, the approval would materially affect the heritage significance of the Sydney Opera House, the public is notified of the application. The notification of the proposal and an invitation to comment will be advertised in a nation-wide daily newspaper and on-site, and the proposal and the relevant documentation will be publicly displayed at the office of the approval body (the Heritage Council). The usual public comment period of 21 days will be extended to 30 days for the purposes of this Management Plan, in line with Australian Government requirements. Notification will address groups with particular communication needs upon request.

In reaching its decision about whether to approve proposed works, the Heritage Council will consider the material provided by the proponent and an assessment report with recommendations prepared by the NSW Heritage Office. The Heritage Council will seek to ensure that:

- an activity will not be approved if it will have a significant adverse impact on the National and World Heritage values of the Sydney Opera House;
- if approved, the activity is subject to any necessary conditions to protect the National and World Heritage values; and

⁷ This is a transitional arrangement which will end once appropriate guidelines and protocols for the environmental assessment of the Sydney Opera House are established. Once the guidelines and protocols are in place, this approval will be sought independently of the approval under Part 3 of the *Environmental Planning and Assessment Act 1979*.

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- that any such conditions are appropriately monitored and enforced.⁸

Approval may only be granted if it is substantially consistent with the environmental assessment carried out under Part 3A of the *Environmental Planning and Assessment Act 1979* (clauses (1) and (2) of the 'Special heritage provision with respect to Opera House' in Division 2 of Schedule 1 of the *Environmental Planning and Assessment Amendment (Infrastructure and Other Planning Reform) Bill 2005*). The Heritage Council can attach conditions to any approval granted.

(iii) Approvals in relation to the Sydney Opera House

In addition to the requirements set out above, the Minister(s) responsible for administering the New South Wales *Environmental Planning and Assessment Act 1979* and the Heritage Council in administering the *Heritage Act 1977* will seek to ensure that:

- any potential impacts on the National and World Heritage values of the Sydney Opera House are appropriately considered at all stages of the assessment and approvals process;
- in assessing an application for approval, and in making a determination in relation to that application, the decision maker will take account of the precautionary principle;
- an activity will not be approved if it will have unacceptable or unsustainable impacts (and in particular a *significant* adverse impact) on the National and World Heritage values of the Sydney Opera House;
- if approved the activity will be subject to any conditions necessary to ensure that the National and World Heritage values of the Sydney Opera House are conserved, protected, presented, transmitted to future generations and, if appropriate, rehabilitated; and
- any conditions attached to an approval will be appropriately monitored and enforced.⁹

⁸ See 'Compliance, Offences and Penalties' below.

⁹ See 'Compliance, Offences and Penalties' below.

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d. Compliance, offences and penalties

Breach of Act or planning approval

The *Environmental Planning and Assessment Act 1979* and the *Heritage Act 1977* establish mechanisms to ensure that the terms of approvals granted under those Acts and in accordance with this Management Plan will be enforced.

The New South Wales Department of Infrastructure, Planning and Natural Resources has a dedicated Compliance Branch that monitors ongoing compliance with planning approvals. In the event that a proponent does not comply with the conditions of a development consent issued under the *Environmental Planning and Assessment Act 1979*, a criminal offence is committed (s125). Proceedings can be brought in the Land and Environment Court or a Local Court. If convicted, penalties range from \$10,000 to \$100,000 (sections 126, 127).

Civil proceedings can be brought in the Land and Environment Court (s123). These may be brought if a remedial order is required or if an order is required to restrain a threatened breach. The Court can order the reinstatement of the land or building to its former condition or restrain the land or building from being used for purposes which are not permitted (s124).

Similar provisions exist under the *Heritage Act 1977*. Proceedings can be brought in the Land and Environment Court to restrain a breach of any of the provisions of the Act (s153). If the damage has already occurred, an order can be sought requiring the offender(s) to restore the damaged land or building to its condition immediately before the breach was committed (s154). A criminal offence is also committed, punishable in the Land and Environment Court, with fines of up to \$1.1 million and up to six months imprisonment (s157).

Offences committed by third parties

In the event that the act of a third party impacts on the National and World Heritage values of the Sydney Opera House, the provisions of the *Crimes Act 1900* may apply. A series of crimes dealing with the criminal destruction of property are punishable, by fines or imprisonment.

In 2004, the NSW Government enacted specific legislation to protect the Sydney Opera House. The *Sydney Opera House Trust (Amendment) Act 2004* established a series of offences including:

- trespass;
- trespass with the intent to cause damage, or disrupt operations; and
- intentional or reckless damage.

Where the value of the damage is less than \$5000, the matter will be dealt with summarily under the *Criminal Procedure Act 1986*. Where the value of

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the damage caused is more than \$5000, the penalty for convicted third parties is imprisonment, with terms ranging from 2 to 5 years depending on the offence. The provisions of the *Sydney Opera House Trust (Amendment) Act 2004* do not prevent NSW Police from charging third parties with another offence which incurs a greater penalty under other legislation such as the *Crimes Act 1900*.

This suite of offences is vital to ensuring that the National and World Heritage values of the Sydney Opera House will be adequately protected.

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6. MANAGEMENT FRAMEWORK

The Sydney Opera House is owned by the NSW Minister for the Arts, on behalf of the Government of New South Wales. The Minister currently administering the *Sydney Opera House Trust Act 1961* is the New South Wales Minister for the Arts. The *Sydney Opera House Trust Act 1961* provides for the administration of the Sydney Opera House on behalf of the New South Wales Government by the Sydney Opera House Trust, whose functions under section 4 of the Act, include:

- the administration, care, control, management and maintenance of the Sydney Opera House;
- the management and administration of the Sydney Opera House as a theatre, concert hall and place of assembly to be used as a place for the presentation of any of the branches of the musical, operatic, dramatic, terpsichorean, visual or auditory arts or as a meeting place in respect of matters of international, national or local significance;
- the promotion of artistic taste and achievement in any of the branches of the arts referred to in the foregoing provisions of this subsection; and
- scientific research into, and the encouragement of, new and improved forms of entertainment and methods of presentation of entertainment.

The functions of the Sydney Opera House Trust are supported by the Sydney Opera House Executive Management, who are responsible for the day-to-day management of the place.

The Sydney Opera House Conservation Council is a specialist advisory committee to the Sydney Opera House Trust on conservation issues (see 'Consultation, Expert Advice and Implementation' for further information on the role of the Conservation Council).

The Sydney Opera House Trust and the Sydney Opera House Executive Management will seek to ensure that day-to-day and minor management actions that would not normally require assessment and approval, or that are designed to address the management of values other than the National and World Heritage values, are nonetheless consistent with the management of the National and World Heritage values of the Sydney Opera House.

The existing Conservation Management Plan (CMP) and *Utzon Design Principles* (Appendices A and B to this plan) were commissioned by the Sydney Opera House Trust to guide the management and administration of the Sydney Opera House. The CMP was developed in preparation for the listing of the Sydney Opera House on the State Heritage Register, and was adopted by the Sydney Opera House Trust in 2003. The *Utzon Design Principles* are a record of Jørn Utzon's vision for the building and its setting, and his comments on the future. This document is intended as a reference for the conservation of the Sydney Opera House site and in the management of proposals for change. The CMP and *Utzon Design Principles* were formally

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endorsed by the NSW Heritage Council in December 2003 as the guiding policy documents for the ongoing conservation of the Sydney Opera House.

The CMP identifies the heritage values of the Sydney Opera House and provides an analysis of their significance. This Management Plan relies primarily on the CMP, and the *Utzon Design Principles*, to provide the policies that will also be employed to identify, protect, conserve, present, transmit to future generations and, if appropriate, rehabilitate the relevant National and World Heritage values of the Sydney Opera House. Policies that will be used to achieve these aims in relation to all the identified heritage values of the Sydney Opera House, including State, National and World Heritage values, are described in detail on pages 41 to 100 of the CMP.

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7. RISK MANAGEMENT

Consistent with contemporary practices, risk management is embedded within the administration and property management of the Sydney Opera House. A number of documents have been developed to put in place protocols and procedures to identify and deal with risks of varying natures. First and foremost, the CMP provides a comprehensive approach to the mitigation of potential risks to the heritage values of the Sydney Opera House. The CMP identifies and analyses current and foreseeable risks to the heritage values of the Sydney Opera House and details policies that seek to minimise or avoid these risks, including policies concerning the management and conservation processes to be used, and procedures for monitoring and review of those processes. The policies set out in the CMP will also be used to mitigate or avoid potential risks to the National and World Heritage values of the Sydney Opera House, in order to protect and conserve those values.

Other documents developed by the Sydney Opera House Trust to collectively underpin the total asset management and protection strategy of the Sydney Opera House include: strategic building plans; strategic asset maintenance plans; a building standards manual; building asset strategy plans; emergency plans; security plans and policies; and a crisis management plan.

These documents are regularly reviewed and updated and represent a cohesive and adaptive management strategy to conserve the Sydney Opera House's heritage values and maintain its reputation as a building icon and leading performing arts centre.¹⁰

The NSW statutory framework outlined above provides further protection against risks to the National or World Heritage values of the Sydney Opera House by preventing proposed actions that will have unacceptable or unsustainable impacts on the National and World Heritage values of the Sydney Opera House from proceeding, and by allowing conditions to be attached to any approvals granted to ensure that any impacts on the National and World Heritage values are prevented or mitigated.

However, to ensure that all foreseeable risks to the National and World Heritage values are identified, the Sydney Opera House Executive will develop a Heritage Risk Management Policy and a Heritage Risk Management Plan within six months of the accreditation of this Management Plan, to specifically focus on identifying risks (and risk management strategies) to the National and World Heritage values of the Sydney Opera House.

The Heritage Risk Management Policy and the Heritage Risk Management Plan will be prepared in accordance with Australian Standard *AS 4360:2004, Risk Management*. The Policy and Plan will be forwarded to the New South

¹⁰ The documents which make up the management framework are subject to change in the future and this Management Plan will be amended as necessary to reflect any changes at each formal review of the Management Plan by the Parties.

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Wales Minister for the Arts for approval within six months. The Policy and the Plan will then be provided to the Australian Government Minister for the Environment and Heritage for information. The Policy and Plan will be prepared in response to identified National Heritage values and expected World Heritage values. Should the presumed World Heritage values be different once the Sydney Opera House is inscribed on the World Heritage List, the Policy and Plan will be updated, if necessary, within six months of World Heritage Listing.

The **Heritage Risk Management Policy** will include:

- the objectives and rationale for managing risks to the National and World Heritage values of the Sydney Opera House;
- the links between the policy and the Sydney Opera House's broader strategic plans;
- the processes to be used to manage risks to the National and World Heritage values of the Sydney Opera House;
- accountabilities for managing these risks;
- details of the support and expertise available to those accountable for managing risks;
- a statement on how risk management performance will be measured and reported;
- details of communication and consultation arrangements to ensure that affected and concerned stakeholders are involved in the risk management process; and
- a commitment to and establishment of mechanisms for ongoing monitoring and review.

The **Heritage Risk Management Plan** will:

- *identify the risks* (including what, where and when risks can occur as well as how and why they may occur) and tools and techniques used to identify these risks;
- *analyse and evaluate the risks* by evaluating the strengths and weaknesses of existing controls that act to minimise risks and the likelihood of those risks occurring and their associated consequences; and
- *identify and assess the options for the management of those risks.*

The Heritage Risk Management Policy and the Heritage Risk Management Plan will be integrated with the Sydney Opera House Executive's broader risk management framework to ensure that all risks to the Sydney Opera House are identified and managed in a manner that is consistent with managing risks to its National and World Heritage values.

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8. CONSULTATION, EXPERT ADVICE AND IMPLEMENTATION

The Sydney Opera House Conservation Council¹¹ is an advisory committee to the Sydney Opera House Trust. The purpose of the Conservation Council is to:

- (i) provide the Trust with the necessary specialist advice and recommendations regarding the principles and issues of significance relating to the medium and long term preservation, conservation and development of the Sydney Opera House building and site;
- (ii) critically inform the strategic direction and decision making of the Sydney Opera House and its implications for the building and site; and
- (iii) provide the Sydney Opera House Trust with advice regarding the management of key stakeholder relationships on conservation and heritage matters.

Membership of the Conservation Council includes representatives from:

- the Sydney Opera House Trust;
- the Sydney Opera House Executive;
- the Government Architect (NSW Department of Commerce); and
- government and private sector specialists with recognised expertise in architecture, heritage and conservation matters, design, engineering and related disciplines and performing arts.¹²

Once the Sydney Opera House is listed on the National and World Heritage Lists, membership of the Council will be enlarged to include one representative from each of the following Government agencies:

- the NSW Heritage Office and the Department of Infrastructure, Planning and Natural Resources (NSW)¹³ and;
- the NSW Ministry for the Arts.

The Conservation Council's Charter will also be expanded to include the following functions:

- monitor and advise the Sydney Opera House Trust on the implementation of heritage conservation policies (including the CMP and the *Utzon Design Principles*);

¹¹ *Sydney Opera House Conservation Council Brief (2005)*.

¹² *Sydney Opera House Conservation Council Membership Rules (2005)*

¹³ The representatives of these regulatory agencies will participate as observers so that they can be informed of conservation matters of interest to their Ministers in relation their decision making responsibilities under this Management Plan.

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- receive submissions or advice from persons who have an interest in the property or who may be affected by the management of the property, including indigenous people;
- monitor and advise the Sydney Opera House Trust on: how the heritage values of the place are identified, conserved, protected, presented, transmitted to future generations and, if appropriate, rehabilitated; mechanisms to deal with the impacts of actions that individually or cumulatively degrade or threaten to degrade the heritage values of the place; the development of the Risk Management Plan; the identification of unforeseen discoveries or disturbance of heritage and mechanisms for their management; and how heritage values are to be interpreted and promoted;
- through the Sydney Opera House Trust, advise the Minister(s) responsible for administering the New South Wales *Environmental Planning and Assessment Act 1979* and the *Heritage Act 1977*, and the Minister for the Arts, on matters relevant to the administration of this Management Plan including monitoring and reporting on the state of the National and World Heritage values of the Sydney Opera House and providing advice on unforeseen discoveries or disturbances of heritage mechanisms for their management; and
- through the Sydney Opera House Trust, provide a report each year to the Minister(s) responsible for administering the New South Wales *Environmental Planning and Assessment Act 1979* and the *Heritage Act 1977*, and the Minister for the Arts, on the implementation of this Management Plan, including a report on state of the National and World Heritage values.

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9. MANAGEMENT PLAN REVIEW

This Management Plan will be monitored on an ongoing basis and reviewed by the Australian Government and the State of New South Wales at intervals of not more than five years.

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10. PUBLIC CONSULTATION

This Management Plan will be exhibited for public comment for a period of four weeks. The invitation to comment will be advertised in a newspaper circulating in each State and Territory; and on the NSW Heritage Office website (www.heritage.nsw.gov.au).¹⁴

¹⁴ (Editorial Note: This section will be amended after the public consultation has occurred).

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11. ACKNOWLEDGEMENTS

This Management Plan has been drafted by the New South Wales Sydney Opera House World Heritage Nomination Taskforce which includes representatives from:

- Sydney Opera House Executive;
- Heritage Office;
- Department of Infrastructure, Planning and Natural Resources; and
- The Cabinet Office.