



Australian Government

Department of Infrastructure, Regional Development and Cities

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TO	CC	FROM
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DECISION UNDER THE AIRPORTS (PROTECTION OF AIRSPACE) REGULATIONS 1996

- Proposed Activity:** Construction of a building
- Location:** Sydney Metro Pitt Street South, Sydney NSW
- MGA 94 Coordinates:** E 334308, N 6250260
- Proponent:** NSW Planning & Environment

I refer to the application from NSW Planning & Environment (the Proponent), received by the Department of Infrastructure, Regional Development and Cities (the Department) on 16 August 2018 from Sydney Airport Corporation Limited (SACL). This application (Ref: 17/0892a) sought approval under the Airports (Protection of Airspace) Regulations 1996 (the Regulations) for the intrusion of a building at Sydney Metro Pitt Street South, Sydney NSW (the site) into airspace which, under the Regulations, is prescribed airspace for Sydney Airport.

The proposed development was previously approved by the Department on 1 August 2018 for a maximum height of 261 metres above the Australian Height Datum (AHD). This application seeks to vary the approval to reduce the height of the building to **171 metres AHD**.

Under regulation 6(1), ‘prescribed airspace’ includes ‘the airspace above any part of either an Obstacle Limitation Surface (OLS) or Procedures for Air Navigation Services - Aircraft Operations (PANS-OPS) surface for the airport’.

The Outer Horizontal Surface of the OLS above this site is at a height of 156 metres AHD and hence prescribed airspace above the site commences at 156 metres AHD. At a maximum height of 171 metres AHD, the building will penetrate the OLS by 15 metres AHD.

Accordingly, the construction of the building constitutes a “controlled activity” under Section 182 of the *Airports Act 1996* (the Act). Section 183 of the Act specifies that controlled activities cannot be carried out without approval. Details of the penetration of prescribed airspace are provided in Table 1.

Table 1: Height and location of the proposed activity that will intrude into prescribed airspace for Sydney Airport.

Activity	MGA 94 Coordinates	Maximum height (AHD)	Penetration of prescribed airspace
Building	E 334308, N 6250260	171 metres	15 metres

Regulation 14 provides that a proposal to carry out a controlled activity must be approved unless carrying out the controlled activity would interfere with the safety, efficiency or regularity of existing or future air transport operations into or out of the airport concerned. Regulation 14(1)(b) provides that an approval may be granted subject to conditions.

Under the Regulations, the Secretary of the Department is empowered to make decisions in relation to the approval of controlled activities, and impose conditions on the approval.

Decision

As you may be aware, the Secretary is required under regulation 15(1AB) of the Regulations to make a decision about the proposal within 28 days of receiving the application. I am the Secretary’s Delegate for the purposes of the Regulations.

Due to delays with our processes and the time taken to receive all the information that is relevant to the making of a decision, a decision was not made within this timeframe. Therefore, under regulation 15(2) this proposal was taken to have been refused. However, the Department has now considered the application in full and I have re-made the decision.

In accordance with regulation 14, **I approve** the controlled activity for the intrusion of a building at Sydney Metro Pitt Street South Development, NSW into prescribed airspace for Sydney Airport to a **maximum height of 171 metres AHD**.

In making my decision, I have taken into consideration the opinions of the proponent, the Civil Aviation Safety Authority, Airservices Australia’s advice number SY-CA-563 P2 and SACL.

In accordance with regulation 14(1)(b), I impose the following conditions on my approval:

1. The building **must not exceed** a maximum height of **171 metres AHD**, inclusive of all lift over-runs, vents, chimneys, aerials, antennas, lightning rods, any roof top garden plantings, exhaust flues etc.
2. The proponent **must advise** Airservices Australia at least three business days prior to the controlled activity commencing by emailing <ifp@airservicesaustralia.com> and quoting SY-CA-563 P2.

3. Separate approval **must be sought** under the Regulations for any construction equipment (i.e. cranes) required to construct the building. Construction cranes may operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Regulations. Therefore, it is advisable that approval to operate construction equipment (i.e. cranes) be obtained prior to any commitment to construct.
4. On completion of construction of the building, the Proponent **must provide** the airfield design manager with a written report from a certified surveyor on the finished height of the building.

Breaches of approval conditions are subject to significant penalties under Sections 185 and 187 of the Act.

In accordance with regulation 16, I revoke the original approval of 1 August 2018 as it has been superseded by this approval.

Yours sincerely



Sharyn Owen
Director, Airport Safeguarding
Aviation and Airports Division

7 November 2018