



## Australian Government

### Department of Infrastructure, Transport, Regional Development, Communications and the Arts

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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:** 391–423 Pacific Highway, Crows Nest NSW

**Coordinates:** E 333566; N 6255451 (MGA 94)

**Proponent:** Deicorp Projects (Crows Nest) Pty Ltd

I refer to the application from Deicorp Projects (Crows Nest) Pty Ltd (the Proponent), received by the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (the Department) on 8 February 2024 from Sydney Airport Corporation Limited (SACL). This application (SACL Ref. 24/0052) sought approval under the Airports (Protection of Airspace) Regulations 1996 (the Regulations) for the intrusion of a building at 391–423 Pacific Highway, Crows Nest NSW (the site) into airspace which, under the Regulations, is prescribed airspace for Sydney Airport.

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 above the Australian Height Datum (AHD) and hence prescribed airspace above the site commences at 156 metres AHD. At a maximum height of 177.9 metres AHD, the building will penetrate the OLS by 21.9 metres.

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	Coordinates	Maximum height (AHD)	Penetration of prescribed airspace
Building	E 333566; N 6255451	177.9 metres	21.9 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. I am the Secretary's Delegate for the purposes of the Regulations.

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

In accordance with regulation 14, **I approve** the controlled activity for the intrusion of a building at 391–423 Pacific Highway, Crows Nest NSW into prescribed airspace Sydney Airport to a **maximum height of 177.9 metres AHD**.

In making my decision, I have taken into consideration the opinions of the Proponent, the Civil Aviation Safety Authority, Airservices Australia (advice number YSSY-CA-874) 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 **177.9 metres AHD, including all** lift over-runs, vents, chimneys, aerials, antennas, lightning rods, any roof top garden plantings, exhaust flues etc.
2. Separate approval **must be sought** under the Regulations for any equipment (e.g. cranes, concrete pumps) required to construct the building. Construction cranes or concrete pumps may be required to 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 (e.g. cranes, concrete pumps) be obtained prior to any commitment to construct.

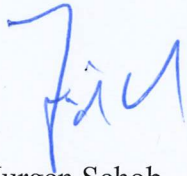
I note that two tower cranes, with the taller of the two cranes at a maximum height of 204.6 metres AHD, for the construction of the building have been approved by the Department on 18 March 2024.

3. The Proponent **must advise** Airservices Australia at least three business days prior to the controlled activity commencing by emailing [ifp@airservicesaustralia.com](mailto:ifp@airservicesaustralia.com) and quoting YSSY-CA-874.

4. On completion of construction of the building, the Proponent **must provide** SACL with a written report from a certified surveyor on the finished height of the building.
5. A separate assessment and approval under the Regulations will be required for any further addition to the height of the building (including the installation of antennas) as it will increase the penetration of the OLS.

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

Yours sincerely



Jurgen Schob  
A/g Director  
Airspace Protection & Airport Safeguarding  
Domestic Aviation & Reform

18 March 2024