

ASSESSMENT REPORT

City East Zone Substation Project Application – Stage 2A(ii) MP 11_0092 MOD 1

1. INTRODUCTION

This report is an assessment of a request to modify the Project Application for the construction and operation of the City East Zone substation, cable tunnel and Integrated Commercial Tower at 33 Bligh Street, Sydney, within the City of Sydney Local Government Area.

The request has been lodged by Ausgrid (the Proponent) pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act). It seeks approval to extend the lapse date to commence works on the project.

2. SUBJECT SITE

The subject site is known as 33 Bligh Street, Sydney and is located within the northern part of the Sydney Central Business District (CBD). The site is located approximately 150 metres north of Martin Place, 250 metres west of the Royal Botanic Gardens, 300 metres east of Wynyard station and 500 metres south of Circular Quay station and ferry wharfs.

The site location is shown in **Figure 1**.

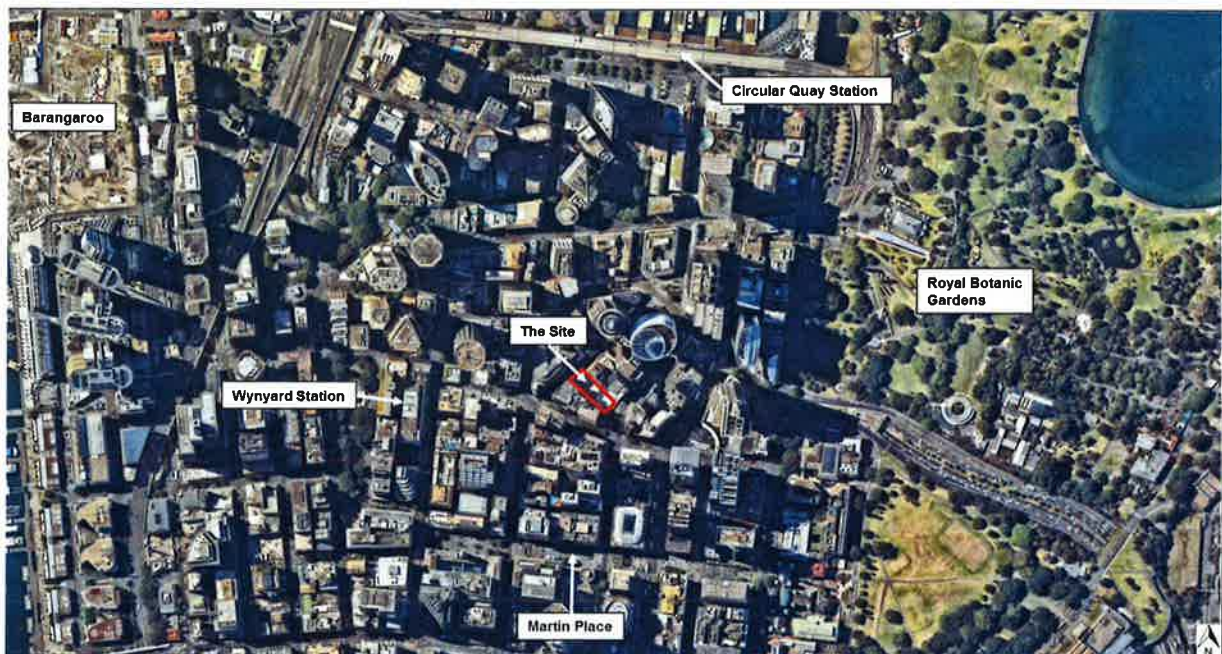


Figure 1: Project location (Base source: Nearmap)

The site is generally rectangular in shape and has frontages to Bligh Street and O'Connell Street. The site previously contained two multi-storey commercial buildings (collectively known

The immediate surrounding area predominantly comprises a mix of commercial and office buildings. Key buildings including the Lowy Institute (former NSW Club House) and City Mutual Life Assurance Society Building on Bligh Street. And the Radisson on O'Connell Street. The adjoining Art Deco building at 16 O'Connell Street contains residential apartments at upper levels.

The existing site layout and surrounding development is shown at **Figure 2** below.



On 20 September 2009, the then Minister for Planning approved a Concept Plan (MP08_0075) for the Sydney CityGrid Project (Concept Approval), which is an integrated program of works to upgrade critical electricity infrastructure in the Sydney CBD.

- a) **Stage 1** works in and around the Belmore Park Zone substation site, comprising:
 - i) **Stage 1A** construction and operation of the Belmore Zone substation site and tunnel;
 - ii) **Stage 1B** commercial/retail development on the corner of Pitt, Campbell and Hay Streets, to be integrated with works comprising Stage 1A;
- b) **Stage 2** the balance of works required for the concept plan, comprising:
 - i) **Stage 2A** construction and operation of the City East Zone substation;
 - ii) **Stage 2B** refurbishment of existing Dalley Street Zone substation, or construction of new building adjacent to the site;
 - iii) **Stage 2C** construction and operation of a sub-transmission switching station;
 - iv) **Stage 2D** construction of the City East Cable Tunnel and City North Zone substation;

v) **Stage 2E** extension to the City South Cable Tunnel.

The Concept Approval location and layout is shown at **Figure 3**.

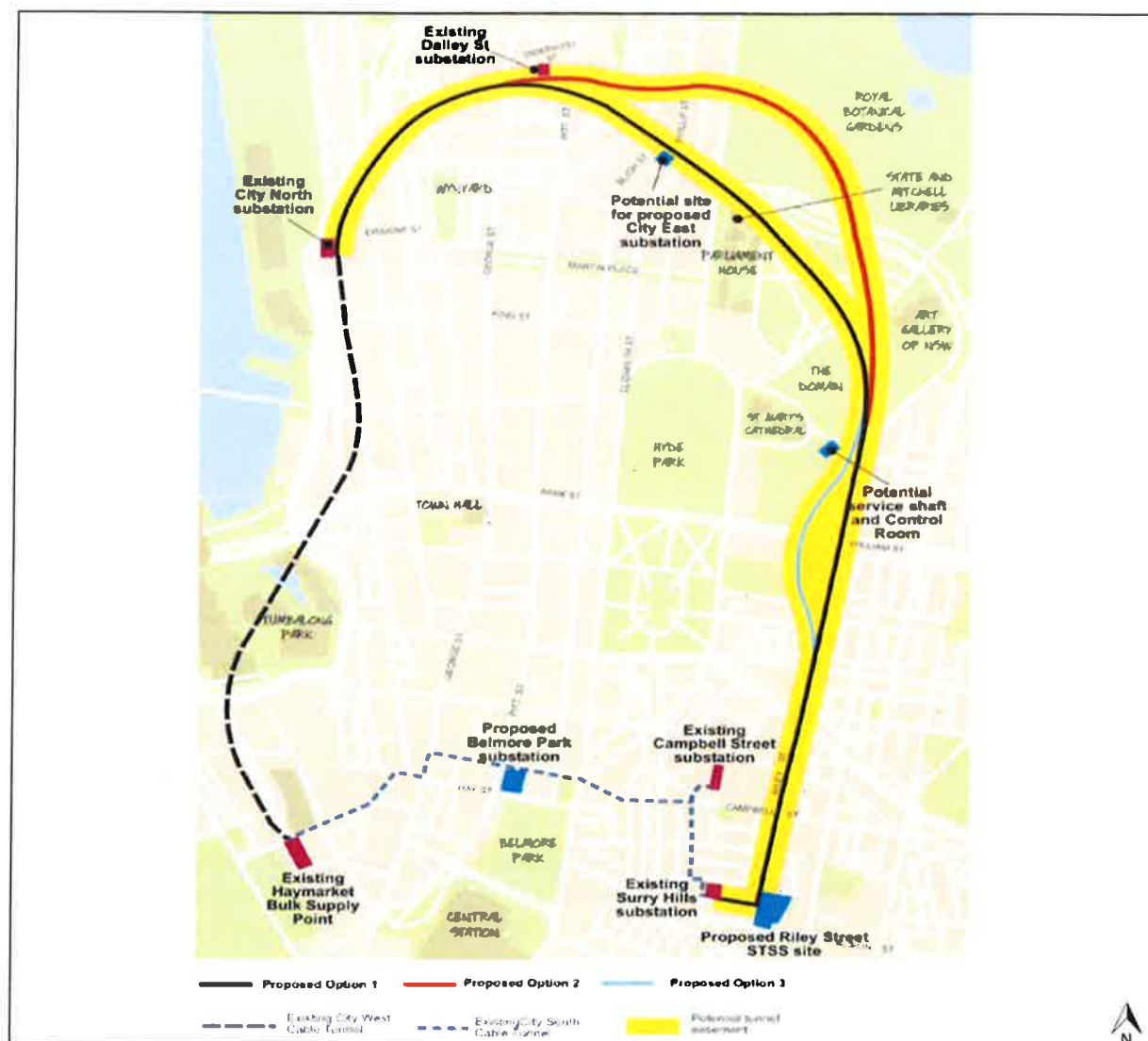


Figure 3: Concept Approval location and layout (Base source: Concept Approval)

To date, approvals have been granted for a number of components including the Belmore Park substation (Stage 2A(i)), demolition of the existing buildings on the site of Kindersley House (Stage 2A(ii)), and City East Cable Tunnel and extension of City South Cable Tunnel (Stage 2D/2E).

The Concept Approval has been modified on two separate occasions to revise the architectural design of the Belmore Park substation and to enable a through site link between Campbell and Hay Streets.

On 11 December 2012, the then Deputy Director-General as delegate of the Minister for Planning approved a Project Application (MP11_0092) for the Sydney CityGrid Project Stage 2A(ii), including:

- construction and operation of the City East Zone substation and Integrated Commercial Tower, including:
 - a 150m tunnel beneath Bligh Street to connect the City East Zone substation to the City East Cable Tunnel;

- a five level basement with up to 40 basement car/motorcycle spaces;
- substation with height of approximately 52.58m above O'Connell Street and 45.68m above Bligh Street; and
- Integrated Commercial Tower (located above the substation) with a height of approximately 161.73m and 28,050m² of floorspace.
- stratum subdivision

The Project Approval is shown at **Figure 4**.



Figure 4: View west to the Bligh Street elevation of the substation and Integrated Commercial Tower (Source: Project Approval)

Condition B4 of the Project Approval stipulates that:

B4 This project approval shall lapse five years after the date on which it is granted (being 11 December 2017) unless the Proponent has substantially commenced physical works on site.

4. PROPOSED MODIFICATION

On 5 December 2016, the Proponent lodged a section 75W modification application (MP 11_0092 MOD 1) seeking approval to extend the lapse date of the Project Approval by deleting condition B4 and replacing it as follows:

B4

- a) This approval shall lapse on the Lapsing Date unless the proponent has commenced physical works on the site.*
- b) For the purposes of (a) above, the Lapsing Date is the date which is six (6) calendar months after the date on which TfNSW ceases occupation of the site pursuant to its lease of the site.*

The Proponent has not physically commenced works in accordance with Condition B4. However, has confirmed that it still intends to pursue the development.

The Proponent has stated that the extension of the lapsing date is required for the following reasons:

- the site is required by TfNSW for the purpose of constructing the CBD elements of the Sydney Metro Project and any development of the site (in accordance with the Project Approval) cannot proceed until TfNSW has vacated the land;
- there is no predicted demand/requirement for the construction of the Bligh Street Zone substation for the supply of electricity for the northern precinct of the CBD in the short-medium term; and
- the development falls within the scope of works of the Sydney CityGrid Project, which is a significant project intended to provide important new and/or refurbished substations and a tunnel network for Sydney.

The Proponent has also stated that it intends to submit a subsequent modification application to include interim/temporary uses in place of the sub-station.

5. STATUTORY CONSIDERATION

5.1 Section 75W

The project was originally approved under Part 3A of the EP&A Act. Although Part 3A was repealed on 1 October 2011, the project remains a 'transitional Part 3A project' under Schedule 6A of the EP&A Act, and hence any modification to this Approval must be made under the former section 75W of the EP&A Act. The Department is satisfied the proposed change is within the scope of section 75W of the EP&A Act, and it does not constitute a new application.

5.2 Section 75Y

Former section 75Y of the EP&A Act provides that a condition specifying a lapsing date on an Approval may be modified to extend the lapsing period, and the Minister is to review the approval before extending the lapsing period. The Department has therefore reviewed the original approval, as discussed in **Section 7** of this report.

5.3 Approval Authority

The Minister for Planning is the approval authority for the application. However, the Director Modification Assessments may determine the application under delegation as:

- the relevant local Council has not made an objection; and
- a political disclosure statement has not been made; and
- there are no public submissions in the nature of objections.

6. CONSULTATION

The Department made the modification application publicly available on its website, and consulted with the City of Sydney Council (Council), Transport for NSW and Sydney Trains and wrote to surrounding landowners about the proposed modification. Given the minor nature of the proposed modification, it was not notified by any other means.

Council did not object to the proposal and provided the following comments:

- the lapsing condition (condition B4) should be modified to include a specific lapsing date (30 July 2021); and
- Council's should be consulted on any subsequent modification applications relating to interim/temporary land-uses.

Sydney Trains advised the administrative impacts of extending the lapse date of approval will not affect the interim rail corridors below the site (CBDRL or CBD Metro).

There were no **public** submissions received on the proposal.

7. ASSESSMENT

7.1 Extension of the lapsing date of the development consent

The Department notes that Section 75Y of the EP&A Act outlines that the Minister may modify the lapsing period of a consent granted under Part 3A of the EP&A Act, subject to a review of the approval before extending the lapsing period.

The Department has reviewed the original approval and Council's submission and is satisfied there are no circumstances which have materially changed since the approval that would result in a different determination of the application today. In particular:

- The original application was assessed against the Sydney Local Environmental Plan (LEP) 2005 and was considered acceptable. The Sydney LEP 2005 has been superseded by the Sydney LEP 2012. The proposed land uses, building heights and floor space ratio are generally consistent with the Sydney LEP 2012 and the Department's original assessment and conclusions on the acceptability of the proposal remain valid;
- The proposal would not impact on supply as demand for additional services are not yet required;
- There has not been a substantial change to the site's physical surroundings;
- The only aspect of the proposal sought to be modified as part of this application is the lapsing date. The current modification request does not seek to modify any other aspect of the development which would change the environmental impacts associated with the development; and
- The Department has reviewed the original assessment and considers that the proposed land uses remain appropriate for the site. The Department notes that the Proponent intends to submit a subsequent modification application to include interim/temporary uses in place of the sub-station. Any such proposal would be notified to relevant authorities and its merits assessed as part of any future modification application.

The Department is therefore satisfied an extension to the lapsing period will not result in any change to the Department's original assessment, or any additional environmental impacts, beyond those already assessed and approved.

In addition, the Department notes that the site is located above the CBD Metro Stage 1 Rail Corridor and an Interim Metro Rail Corridor. Clause 88A of *State Environmental Planning Policy (Infrastructure) 2007* (ISEPP) provides that consent must not be granted to a major development if it would have an adverse effect on the viability of the proposed metro, including

increasing the cost of developing the metro. The proposed modification enables the lease of the site to TfNSW in the short term for the purpose of constructing the Sydney Metro. The proposal is therefore consistent with broader strategic planning objectives for transport infrastructure provision as well as the objective of the ISEPP of facilitating the development of the metro.

Council has requested that the lapsing condition (Condition B4) be amended so that it refers to a specific lapsing date (30 July 2021), rather than that requested term of six months after TfNSW ceases its occupation of the building. The Department agrees that a specific lapse date would provide for a clear and more enforceable condition.

In light of the above, the Department recommends that Condition B4 of the Project Approval be amended to provide a revised lapse date of six years from the date of the modification consent.

The Department therefore considers an extension to the lapse is acceptable as the site remains suitable for the approved development, would not alter the overall nature of the Project Application approval as it would continue to achieve the same objectives as the original approval, and is consistent with the broader strategic planning objectives including facilitating construction of the Metro.

8. CONCLUSION

The Department has assessed the modification application and supporting information in accordance with the relevant requirements of the EP&A Act. The Department's assessment concludes the proposed modification is appropriate on the basis that the extension of time is consistent with section 75Y, would not result in any adverse impacts and does not alter the original Project Approval.

Consequently, it is recommended the modification be approved subject to the recommended conditions.

9. RECOMMENDATION

It is RECOMMENDED the Director Modification Assessments as delegate of the Minister for Planning:

- **considers** the findings and recommendations of this report;
- **approves** the application under section 75W, subject to conditions; and
- **signs** the notice of modification (**Appendix A**).

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APPENDIX A: NOTICE OF MODIFICATION

A copy of the notice of modification can be found on the Department's website at:

https://majorprojects.affinitylive.com/?action=view_job&id=8128

APPENDIX B: SUPPORTING INFORMATION

The following supporting documents and supporting information to this assessment report can be found on the Department of Planning and Environment's website as follows:

1. Modification request

https://majorprojects.affinitylive.com/?action=view_job&id=8128

2. Submissions

https://majorprojects.affinitylive.com/?action=view_job&id=8128

3. Response to Submissions

https://majorprojects.affinitylive.com/?action=view_job&id=8128