

# **SECTION 4.55(1A) MODIFICATION REPORT**

**S4.55(1A) APPLICATION TO MODIFY  
DEVELOPMENT CONSENT SSD-66826207**



**405 Pacific Highway, 5 Falcon Street &  
8 Alexander Street, Crows Nest**

**May 2025**

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## 1. Summary

This Modification Report has been prepared by Deicorp Projects (Crows Nest) Pty Ltd to accompany an application under the provisions of Section 4.55(1A) of the Environmental Planning & Assessment Act 1979 (EP&A Act) to modify State Significant Development Application (SSDA) 66826207 for 405 Pacific Highway, 5 Falcon Street & 8 Alexander Street (collectively known as 'Five Ways').

The application seeks approval for a reduction in the extent of basement levels from seven levels (approved) to five levels (proposed). The application also seeks approval for the deletion of Condition D6 in its entirety which requires rock breaking, rock hammering, sheet piling, pile driving and similar activities to be undertaken between 9am to 12pm and 2pm to 5pm Monday to Friday and 9am to 12pm on Saturday.

This application is accompanied by the following documentation:

**Table 1: Accompanying application documentation**

Appendix Number	Document
1	Site Plan
2	Architectural plans prepared by Turner Studio
3	Statement relating to Apartment Design Guide storage provision prepared by Turner Studio
4	Updated Stratum Subdivision Plans prepared by Daw & Walton Consulting Surveyors
5	Traffic Statement prepared by JMT Consulting
6	Acoustic Memorandum prepared by Acoustic Logic
7	Stormwater Management Report prepared by Mott Macdonald
8	Civil Drawings Set prepared by Mott Macdonald
9	Report on Numerical Analysis prepared by Douglas Partners
10	Structural Plans prepared by ABC Consultants
11	Structural Report – External Development Adjacent Metro Corridor prepared by ABC Consultants
12	Operational Impact Assessment prepared by Acoustic Logic
13	Instrumentation and Monitoring Strategy for Sydney Metro Underground Structure prepared by Delve Underground
14	Dewatering Management Plan prepared by Douglas Partners
15	Land Owners Consent
16	Rail Risk Management Plan prepared by GKA Management
17	Deicorp Rail Safety Project Hazard Log for Sydney Metro prepared by GKA Management

18	Construction Noise and Vibration Management Plan prepared by Acoustic Logic
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This Statement has been prepared pursuant to section 4.55(1A) of the EP&A Act. This Statement details the proposed development's compliance against applicable environmental planning instruments and development control plans including:

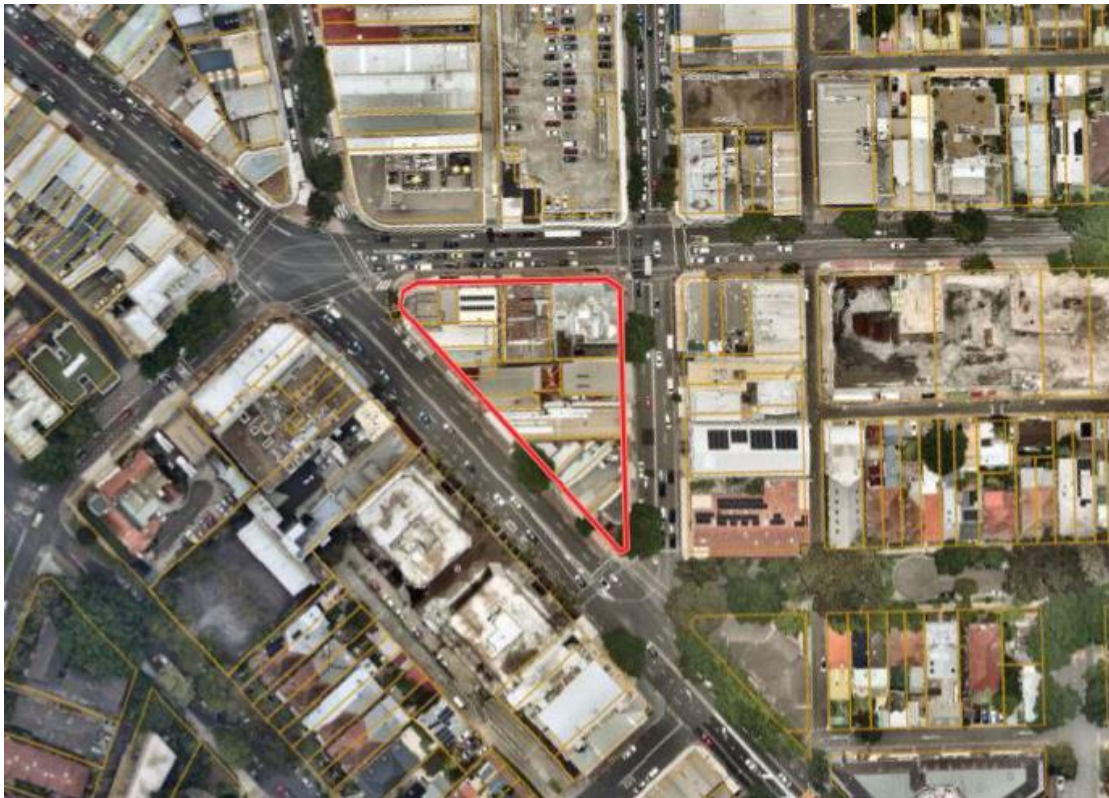
- State Environmental Planning Policy (Housing) 2021 (Housing SEPP); and
- North Sydney Local Environmental Plan 2013 (NSLEP 2013).

Having regard to the applicable legislative framework, the proposed amendments to the approved development are such that the development retains the same fundamental characteristics and is therefore substantially the same development. The amended development remains consistent with the aims and objectives of the relevant environmental planning instruments whilst remaining compatible with the character of the locality.

## 2. Site and Locality

The site is legally described as Lot 1 DP 1305704 formally known as Lots 1-11 DP 29672, Lot 1 DP 127595, Lot 1 DP 562966 and Lots 1-6 DP 16402 (19 lots in total). The site is triangular in shape with a frontage of 69m to Falcon Street, 80.66m to Alexander Street and 108.15m to Pacific Highway. The site has an area of 3,200.6sqm. The site comprises a mixture of commercial buildings ranging from one to four storeys in height. The site also contains a non-digital advertising structure located at the north-western corner of the site fronting Pacific Highway.

The site is outlined in 'red' in the aerial image in Figure 1 below.



*Figure 1: Aerial image of the site outlined in red*

The immediate locality is characterised by a range of commercial, residential and retail uses of varied ages and architectural styles. The Crows Nest Village is in close proximity, to the north of the site.

### 3. Background

#### 3.1. SSD-66826207

On 23 December 2024, the Independent Planning Commission (IPC) granted development consent for:

- Demolition of the existing structures, early works, site remediation and construction of a 22-storey mixed-use development with infill affordable housing comprising:
  - Three storey podium (with mezzanine) with retail and commercial use;
  - 19-storey residential tower above podium comprising 188 apartments (including 48 affordable housing apartments);
  - Communal open space at podium level;
  - Seven levels of basement car parking with 220 car spaces;
  - Two-way vehicular access from Alexander Street; and
  - Associated landscaping works, consolidation of existing lots and stratum subdivision.

#### 3.2. Test of Adequacy Review

On 14 March 2025, Deicorp submitted the modification application package to the Department of Planning, Housing and Infrastructure (DPHI) for Test of Adequacy (ToA). On 28 March 2025, DPHI provided a list of matters to be addressed prior to re-submission. The table below provides a response to the matters raised by DPHI.

**Table 2: Response to ToA matters raised by DPHI**

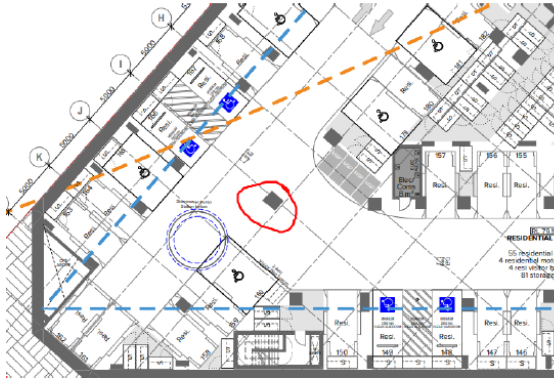
Matter Raised	Response
Ensure all plans and supporting documents do not have references to the digital signage as it is not part of the original approved plans.	All references to digital signage have been removed within the accompanying plans and supporting documentation.
Introduction of stormwater and sewer pump stations below basement level 5: <ul style="list-style-type: none"> <li>• Provide amended stormwater plans</li> <li>• Provide associated plans/sections</li> </ul>	The modification application is accompanied by amended stormwater plans prepared by Mott Macdonald (Appendix 8) which details the location of the amended stormwater infrastructure and sewer pump station.
Provide evidence that there is sufficient storage for all apartments (also consider additional storage potentially required under the future hotel mod).	A Statement prepared by Turner Studio in relation to Apartment Design Guide (ADG) storage compliance accompanies this modification application at Appendix 3.  As confirmed in the Statement, 188 storage cages have been provided in the basement



	<p>equating to one storage cage per apartment. All storage cages are shown on the accompanying architectural plans.</p> <p>The one-bedroom and two-bedroom apartments storage cages are 4m<sup>3</sup> in size and the three-bedroom apartment storage cages are 5m<sup>3</sup> in size. These sizes are in accordance with the ADG volume requirement, considering that at least 50% of the overall volume is provided in the apartments.</p> <p>In relation to the future hotel modification, the basement spatial allocations have been carefully considered and the basement has been designed to support the proposed land uses while fitting within the five-level basement. It is noted that due to the reduction in commercial floor space, the number of end-of-trip facilities can be significantly decreased. This reduction allows for the reallocation of space to provide additional storage, in accordance with the requirements of the ADG.</p>
<p>Ensure the Modification Report includes the following:</p> <ul style="list-style-type: none"> <li>• noise and vibration implications from Sydney Metro Corridor as a result of deleting 2 basement levels (with supporting statement from your acoustic consultant)</li> <li>• engagement discussion with Sydney Metro on the deletion of 2 basement levels</li> <li>• proposed amended layout of the pillars within the basement</li> <li>• the proposed stormwater and sewer pump stations</li> </ul>	<ul style="list-style-type: none"> <li>• The application is accompanied by a Sydney Metro Operational Impact Assessment prepared by Acoustic Logic (Appendix 12). A summary of the noise and vibration implications from the Sydney Metro Corridor as a result of the deletion of two basement levels is discussed in Section 4.2.1 of this Modification Report.</li> <li>• A summary of the consultation with Sydney Metro is discussed in Section 3.3 of this Modification Report.</li> <li>• Section 4.3 of this Modification Report includes discussions about the amended basement layout and the proposed stormwater and sewer pump stations.</li> </ul>
<p>A pillar has been introduced in the middle of the aisle (red circle below).</p> <ul style="list-style-type: none"> <li>• Consider deletion of this pillar for all</li> </ul>	<p>The accompanying Transport Assessment prepared by JMT Consulting (Appendix 5) confirms that the basement design</p>

levels or provide swept path templates demonstrating adequate vehicle manoeuvrability.

- There are concerns the pillar will create a blindspot to the surrounding car spaces.



maintains appropriate space for vehicle manoeuvring and passing. Swept paths around the central column indicate that a 'B99' vehicle can appropriately manoeuvre either side of the column. Refer extract of Figure 2 from the Transport Assessment below.



As part of the subsequent detailed design process, signage and line-marking will be introduced to manage vehicle movements around this column. 'Keep Left' signage would be installed on the column and pavement arrows marked to ensure drivers safely navigate this area.

Please note that during assessment of the modification application, concerns may be likely raised on the tight layout of the car parking spaces (i.e. car parking spaces 161-166 and 158-160 above). It is suggested that you provide evidence and statement from your traffic consultant confirming that all car parking spaces proposed (to all 5 basement levels) will have adequate vehicle manoeuvrability.

As discussed in the accompanying Transport Assessment, detailed swept path analysis confirming that all car parking spaces can be accessed on all basement levels has been undertaken. This confirms the car park has been designed appropriately to relevant standards and will have adequate vehicle manoeuvrability. This swept path analysis (undertaken by Turner Traffic on behalf of Deicorp) is provided at Appendix A of the Transport Assessment.

Please address the owner's consent to:

Amy Watson

Director, Affordable Housing and Assessments

Development Assessment & Sustainability

The owner's consent has been updated (Appendix 15).



### 3.3. Consultation with Sydney Metro

The north-eastern part of the site is located within the existing Sydney Metro reservation. As part of the assessment of SSD-66826207, the application was referred to Sydney Metro who provided recommended conditions of consent to manage the proposal's impacts on the tunnel.

Since approval of the SSD, Deicorp have worked closely with Sydney Metro to satisfy the conditions of consent imposed on SSD-66826207 which were required to be satisfied prior to the issue of a construction certificate. On 12 May 2025 Deicorp received approval from Sydney Metro confirming that Conditions A13-A16, B20-B40, D38-D45, and E45-E50 have been satisfied for Construction Certificate CC1 relating to excavation and shoring works.

Prior to the lodgement of this modification, on 20 May 2025 an online Teams meeting was held between Sydney Metro and Deicorp. Attendees included:

- Andrew Coleman – Construction & Development Executive – Deicorp
- Greg Colbran – Development & Planning Executive – Deicorp
- Poonam Chauhan – Senior Development Manager – Deicorp
- Lotti Wilkinson – Head of Planning – Deicorp
- Charles Marais – Principal – Douglas Partners
- Ernesto Vega – Senior Geotechnical Engineer – Douglas Partners
- Peter Bourke – Senior Manager Corridor Protection – Sydney Metro
- Peter Lemish – Director Engineering, Civil, Structural and Tunnels – Sydney Metro
- Ben Nugteren – Senior Design Manager – Sydney Metro
- Chanaka Gunasekara – Technical Director – Geotechnical, Mott Macdonald (engaged on behalf of Sydney Metro)

Prior to the meeting Deicorp issued Sydney Metro with documentation relating to the amended five level basement design including updated architectural plans, structural plans, structural report, impact assessment relating to ground borne noise prediction and a report of numerical analysis.

At the meeting, Deicorp presented the amended five-level basement design and confirmed the following:

- The shoring design of the proposed five-level basement is the same as the approved seven-level basement design.
- A new 3D numerical analysis has been prepared by Douglas Partners which is based on the five-level basement design. The analysis demonstrates the revised basement sits further away from the Sydney Metro tunnel with the stress relief substantially less and

the foundations located further away.

- Deicorp are continuing with the CC1 approved instrument and monitoring regime and will not be submitting another assessment based on the five-level basement design. Notwithstanding the fact that the modified five-level basement will impose less impact on the tunnel assets, Deicorp are happy to continue with the more stringent level of monitoring and trigger values stipulated in the approved CC1 instrument and monitoring regime.
- The Stage 1 Construction Certificate for excavation and shoring works has been obtained and signed off by Sydney Metro. Deicorp intends to retain the existing approved CC1 excavation and piling design for the amended five-level basement design. The Stage 2 Construction Certificate for car park structure will be procured based on the amended five-level basement design which corresponds to the documentation that Sydney Metro is reviewing as part of this modification.

Sydney Metro made the following comments at the meeting:

- The impacts arising from the reduced basement extent are unlikely to adversely impact the Sydney Metro infrastructure.
- It is not anticipated that there will be any major issues with the amended proposal.
- Sydney Metro were appreciative that a new 3D numerical analysis had been prepared for the amended five-level basement.
- Sydney Metro advised that the CC1 approved Instrumentation and Monitoring Strategy could be relied upon for the purposes of the monitoring regime.
- Sydney Metro advised they would review all documentation submitted via the Major Projects Portal and that concurrence would need to be issued based on the amended documentation.

As detailed in Section 4.6 of this report, this modification seeks to amend Condition B20 and delete Condition B21, conditions which have been imposed by Sydney Metro. Amendments to these conditions are proposed to ensure consistency with the documents which have been separately approved by Sydney Metro as part of CC1 and consistency with the updated documentation submitted for the five-level basement design.

## 4. Proposed Modifications

### 4.1. Basement Design Amendments

The proposed design items to be amended are indicated in the updated architectural set by Turner Studio and are summarised in Table 3 below. In summary, a detailed review of the basement layouts has occurred and has identified a more efficient allocation of parking, plant, storage and overall layout. This has resulted in the basement design being rationalised, with the deletion of two basement levels (Basement 6 & 7).

**Table 3:** Proposed items of the detailed design to be modified.

PROPOSED MODIFICATIONS		
Item	Level	Design Item
1	Basement 7	Level deleted
2	Basement 6	Level deleted
3	Basement 5	Provision of a stormwater pump station (provided at RL75.360) and sewer pump station (provided at RL75.360) below Basement 5 55 residential car spaces 4 residential motorbike spaces 4 residential visitor bike spaces 81 storage cages
4	Basement 4	50 residential car spaces 6 residential motorbike spaces 44 storage cages 4 residential visitor bike spaces 170sqm end of trip facilities
5	Basement 3	52 residential car spaces 6 residential motorbike spaces 13 residential visitor bike spaces 42 storage cages 118sqm end of trip facilities 41sqm retail store
6	Basement 2	33 residential car spaces 15 retail car spaces 1 car wash bay 6 residential motor bike spaces 7 commercial visitor bike spaces 19 residential visitor bike spaces 9 retail visitor bike spaces 21 storage cages 116sqm end of trip facilities

		36sqm retail store Plantroom and services
7	Basement 1	4 service car spaces 6 car share spaces 5 retail car spaces (incl. 3 small) 3 retail motor bike spaces 18 commercial staff bike spaces 23 retail staff bike spaces 8 retail visitor bike spaces Loading dock Retail garbage holding room (70sqm) Commercial garbage holding room (13sqm) Residential bin storage room (46sqm) Bulky goods room (37sqm and 10sqm) Bin chute room (17sqm) Plantroom and services

## 4.2. Updated Numerical Overview

The proposed amendments relate to below ground works only and do not result in any change to the numerical aspects of the proposed development including approved gross floor area, floor space ratio, height etc. Table 4 below provides a comparison between the approved and proposed development in relation to transport and waste matters.

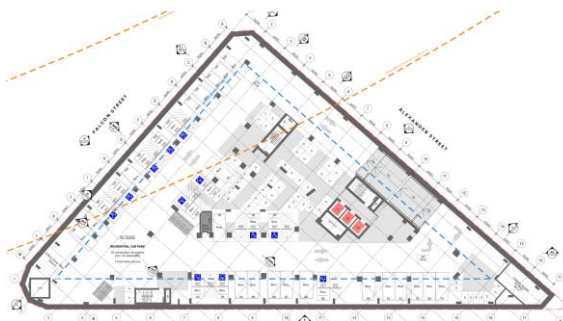
**Table 4:** Comparison between the approved and proposed

PROPOSED MODIFICATIONS			
Item	Approved	Proposed	Change
<b>Residential</b>			
Residential car spaces	190 including 38 adaptable spaces	190 including 38 adaptable spaces	n/a
Residential motorbike spaces	22	22	n/a
Residential bike spaces	188	188	n/a
Residential visitor bike spaces	40	40	n/a
<b>Commercial / retail</b>			
Commercial / retail car spaces	20 including two (2) adaptable spaces	20 including two (2) adaptable spaces	n/a
Commercial / retail motorbike spaces	Three (3)	Three (3)	n/a
Commercial / retail staff bike spaces	41	41	n/a
Commercial / retail visitor bike spaces	24	24	n/a

Other			
Service car spaces	Four (4)	Four (4)	n/a
Car share spaces	Six (6)	Six (6)	n/a
Car wash bay	One (1)	One (1)	n/a
End of trip facilities	407sqm	404sqm	-3 sqm

### 4.3. Updated Architectural Set

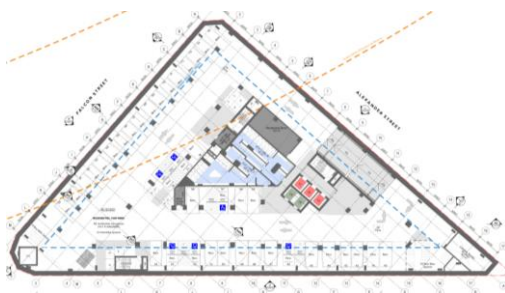
The architectural plans prepared by Turner Studio which accompany this application should be consulted for the amended basement design. Extracts of the approved and proposed plans are provided below.



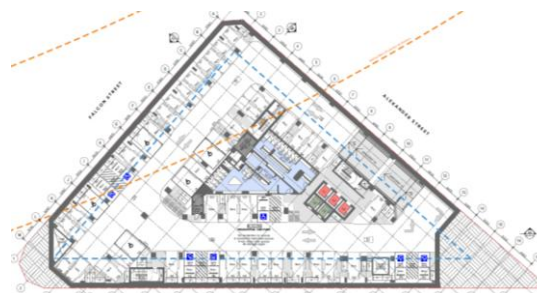
**Figure 2: Approved Level 5 Basement Plan**



**Figure 3: Proposed Level 5 Basement Plan**



**Figure 4: Approved Level 4 Basement Plan**



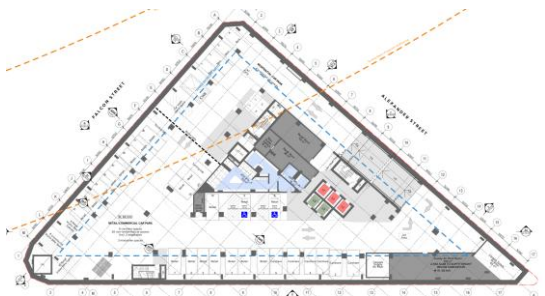
**Figure 5: Proposed Level 4 Basement Plan**



**Figure 6: Approved Level 3 Basement Plan**



**Figure 7: Proposed Level 3 Basement Plan**



**Figure 8: Approved Level 2 Basement Plan**



**Figure 9: Proposed Level 2 Basement Plan**



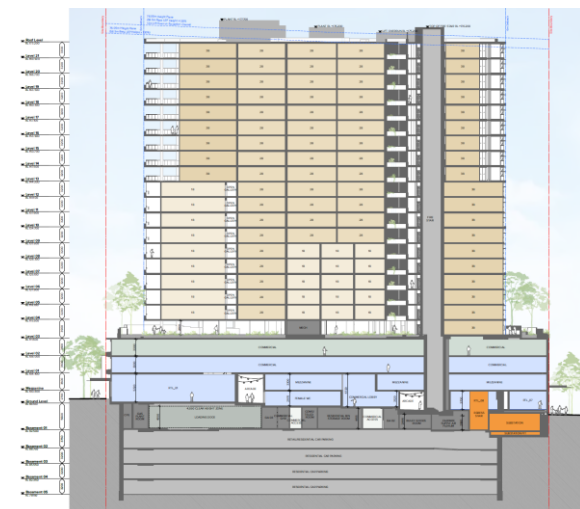
**Figure 10: Approved Level 1 Basement Plan**



**Figure 11: Proposed Level 1 Basement Plan**



**Figure 12: Approved Section AA**



**Figure 13: Proposed Section AA**



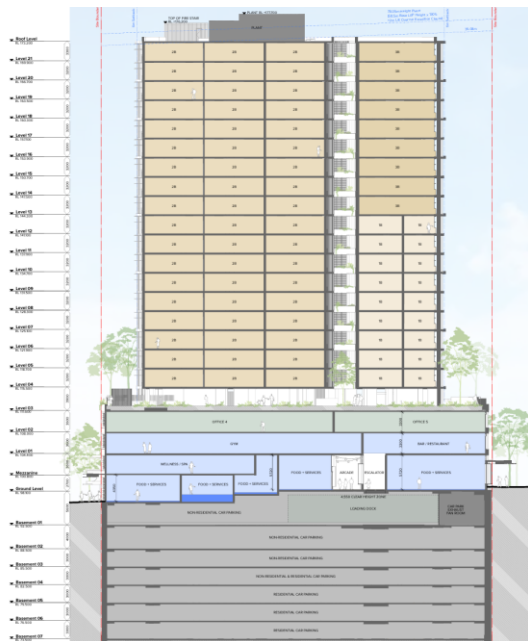


Figure 14: Approved Section BB

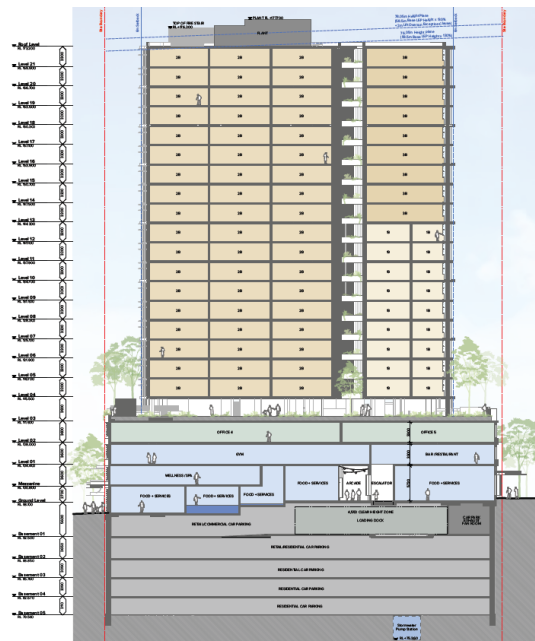


Figure 15: Proposed Section BB

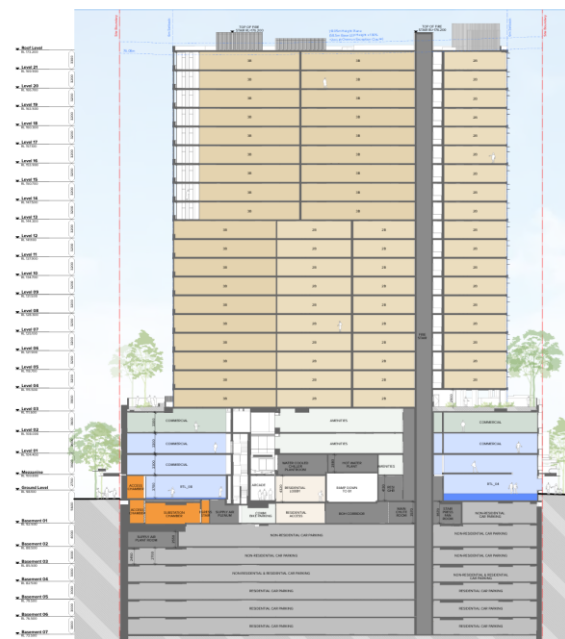


Figure 16: Approved Section CC

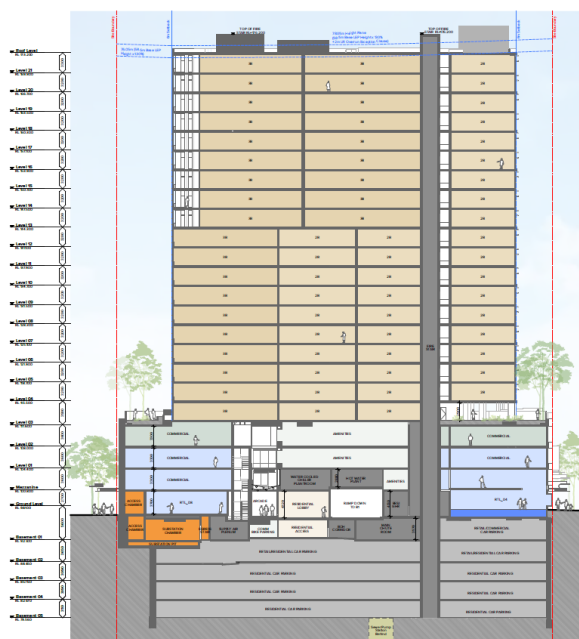


Figure 17: Proposed Section CC

#### 4.4. Updated Draft Stratum Subdivision Plans

This modification application is accompanied by updated draft Stratum Subdivision Plans prepared by Daw & Walton Consulting Surveyors which reflect the modified basement design.

## 4.5. Construction Hours Amendments

This modification seeks the deletion of Condition D6 in its entirety which restricts rock breaking, rock hammering, sheet piling, pile driving and similar activities to be carried out between the hours of:

- (a) 9am to 12pm, Monday to Friday;
- (b) 2pm to 5pm, Monday to Friday; and
- (c) 9am to 12pm, Saturday.

It is proposed that these activities will be undertaken between the following hours of construction, consistent with Condition D3:

- (a) Between 7am and 6pm, Mondays to Fridays inclusive;
- (b) Between 8am and 1pm, Saturdays; and
- (c) No work to be carried out on Sundays or public holidays.

## 4.6. Amendments to Conditions

The following conditions are proposed to be amended as a consequence of the proposed modifications to the approved development:

**Table 5: Requested Condition Amendments**

Condition			
Terms of Consent			
Condition A1			
Architectural drawings prepared by Turner (Project No. 19073)			
Drawing/Sheet No.	Rev.	Name of Plan	Date
<del>DA-110-001</del>	<del>N</del>	<del>GA Plans – Basement 07</del>	<del>17.10.24</del>
<del>DA-110-002</del>	<del>P</del>	<del>GA Plans – Basement 06</del>	<del>17.10.24</del>
<del>DA-110-003</del>	<del>N</del>	<del>GA Plans – Basement 05</del>	<del>17.10.24</del>
<del>DA-110-004</del>	<del>P</del>	<del>GA Plans – Basement 04</del>	<del>17.10.24</del>
<del>DA-110-005</del>	<del>P</del>	<del>GA Plans – Basement 03</del>	<del>17.10.24</del>
<del>DA-110-006</del>	<del>P</del>	<del>GA Plans – Basement 02</del>	<del>17.10.24</del>
<del>DA-110-007</del>	<del>Q</del>	<del>GA Plans – Basement 01</del>	<del>17.10.24</del>
<del>DA-310-101</del>	<del>J</del>	<del>GA Sections – Section AA</del>	<del>29.08.24</del>
<del>DA-310-201</del>	<del>I</del>	<del>GA Sections – Section BB</del>	<del>29.08.24</del>
<del>DA-310-301</del>	<del>G</del>	<del>GA Sections – Section CC</del>	<del>29.08.24</del>
<del>DA-110-003</del>	<del>T</del>	<del>GA Plans – Basement 05</del>	<del>14.05.25</del>
<del>DA-110-004</del>	<del>V</del>	<del>GA Plans – Basement 04</del>	<del>14.05.25</del>
<del>DA-110-005</del>	<del>V</del>	<del>GA Plans – Basement 03</del>	<del>14.05.25</del>
<del>DA-110-006</del>	<del>V</del>	<del>GA Plans – Basement 02</del>	<del>14.05.25</del>
<del>DA-110-007</del>	<del>W</del>	<del>GA Plans – Basement 01</del>	<del>14.05.25</del>

DA-310-101	N	GA Sections – Section AA	24.03.25
DA-310-201	M	GA Sections – Section BB	24.03.25
DA-310-301	K	GA Sections – Section CC	24.03.25
Subdivision plans prepared by Daw & Walton Consulting Surveyors (Job No. 19073)			
Drawing/Sheet No.	Rev.	Name of Plan	Date
1	7	<del>Draft Stratum Subdivision Plan – Site Plan</del>	14.10.2024
2	7	<del>Draft Stratum Subdivision Plan – Basement 7 and below</del>	14.10.2024
3	7	<del>Draft Stratum Subdivision Plan – Basement 6</del>	14.10.2024
4	7	<del>Draft Stratum Subdivision Plan – Basement 5</del>	14.10.2024
5	7	<del>Draft Stratum Subdivision Plan – Basement 4</del>	14.10.2024
6	7	<del>Draft Stratum Subdivision Plan – Basement 3</del>	14.10.2024
7	7	<del>Draft Stratum Subdivision Plan – Basement 2</del>	14.10.2024
8	7	<del>Draft Stratum Subdivision Plan – Basement 1</del>	14.10.2024
1	8	<del>Draft Stratum Subdivision Plan – Site Plan</del>	18.03.2025
2	8	<del>Draft Stratum Subdivision Plan – Basement 5</del>	18.03.2025
3	8	<del>Draft Stratum Subdivision Plan – Basement 4</del>	18.03.2025
4	8	<del>Draft Stratum Subdivision Plan – Basement 3</del>	18.03.2025
5	8	<del>Draft Stratum Subdivision Plan – Basement 2</del>	18.03.2025
6	8	<del>Draft Stratum Subdivision Plan – Basement 1</del>	18.03.2025

## Hours of Construction

~~Condition D6~~

~~Rock breaking, rock hammering, sheet piling, pile driving and similar activities may only be carried out between the following hours:~~

~~(a) 9am to 12pm, Monday to Friday;~~

~~(b) 2pm to 5pm Monday to Friday; and~~

~~(c) 9am to 12pm, Saturday~~

## Sydney Metro Conditions

## ENGINEERING

## Condition B20

Prior to the issue of the Construction Certificate for excavation and construction works (excluding demolition), the Applicant must ensure that all works are undertaken in accordance with the details, methodology, advice, undertakings, measures and recommendations detailed in the following documents:

(a) Architectural drawings:

~~(i) Basement 07 plan, Dwg no. DA-110-001, Revision N, prepared by Turner, dated 17 October 2024;~~

~~(ii) Basement 06 plan, Dwg no. DA-110-002, Revision P, prepared by Turner, dated 17 October 2024;~~

~~(iii) Basement 05 plan, Dwg no. DA-110-003, Revision N, prepared by Turner, dated 17 October 2024;~~

~~(iv) Basement 04 plan, Dwg no. DA-110-004, Revision P, prepared by Turner, dated 17 October 2024;~~

~~(v) Basement 03 plan, Dwg no. DA-110-005, Revision P, prepared by Turner, dated 17 October~~

2024;

- ~~(vi) Basement 02 plan, Dwg no. DA-110-006, Revision P, prepared by Turner, dated 17 October 2024;~~
- ~~(vii) Basement 01 plan, Dwg no. DA-110-007, Revision Q, prepared by Turner, dated 17 October 2024;~~
- ~~(viii) Ground level plan, Dwg no. DA-110-001, Revision N, prepared by Turner, dated 30 August 2024;~~
- ~~(ix) Section AA plan, Dwg no. DA-310-101, Revision J, prepared by Turner, dated 29 August 2024;~~
- ~~(x) Section BB plan, Dwg no. DA-310-201, Revision I, prepared by Turner, dated 29 August 2024;~~  
and
- ~~(xi) Section CC plan, Dwg no. DA-310-301, Revision G, prepared by Turner, dated 29 August 2024;~~
- (i) Basement 05 plan, Dwg no. DA-110-003, Revision T, prepared by Turner, dated 14 May 2025;
- (ii) Basement 04 plan, Dwg no. DA-110-004, Revision V, prepared by Turner, dated 14 May 2025;
- (iii) Basement 03 plan, Dwg no. DA-110-005, Revision V, prepared by Turner, dated 14 May 2025;
- (iv) Basement 02 plan, Dwg no. DA-110-006, Revision V, prepared by Turner, dated 14 May 2025;
- (v) Basement 01 plan, Dwg no. DA-110-007, Revision W, prepared by Turner, dated 14 May 2025;
- (vi) Section AA plan, Dwg no. DA-310-101, Revision N, prepared by Turner, dated 24 March 2025;
- (vii) Section BB plan, Dwg no. DA-310-201, Revision M, prepared by Turner, dated 24 March 2025;
- and
- (viii) Section CC plan, Dwg no. DA-310-301, Revision K, prepared by Turner, dated 24 March 2025.
- (b) Survey plan, Drawing no. 3050-01109-001-004, Revision 01, Sheet 1 of 2, prepared by Stantec, dated 20 August 2024;
- (c) Survey plan, Drawing no. 3050-01109-001-004, Revision 01, Sheet 2 of 2, prepared by Stantec, dated 20 August 2024;
- (d) ~~Report on Dewatering Management Plan, prepared by Douglas Partners, dated 06 October 2023;~~  
Report on Dewatering Management Plan, prepared by Douglas Partners, dated 10 January 2025;
- (e) ~~Instrumentation and Monitoring Strategy for Sydney Metro Underground Infrastructure Protection, Document no. 6466-DLV-MEM-002-B, prepared by Delve Underground, dated 15 August 2024;~~  
Instrumentation and Monitoring Strategy, Monitoring Frequencies And Trigger Levels, drwg ref. DLV-6466-IM03-001, rev. 5, prepared by Delve Underground, dated 09 May 2025
- (f) ~~Construction Vibration Management Plan, Rev 2 prepared by Acoustic Logic, dated 2 August 2024~~  
Sydney Metro Operational Impact Assessment prepared by Acoustic Logic, dated 14 May 2025X;
- (g) Report on Geotechnical Investigation, Rev 1 prepared by Douglas Partners dated 14 September 2023;
- (h) Construction Environmental Management Plan, Rev 2, prepared by Barker Ryan Stewart dated 11 March 2024;
- (i) Structural drawings, including but not limited to;
  - ~~(i) Site retention plan, Dwg no. S01-001, Rev P04, prepared by ABC Consultants dated 13 March 2024;~~
  - ~~(ii) Shoring surcharge loading plan, Dwg no. S01-002, Rev P04, prepared by ABC Consultants dated 13 March 2024;~~
  - ~~(iii) Shoring wall elevations, Sheet 1, Dwg no. S01-005, Rev P04, prepared by ABC Consultants dated 13 March 2024;~~

- ~~(iv) Shoring wall elevations, Sheet 2, Dwg no. S01-006, Rev P04, prepared by ABC Consultants dated 13 March 2024;~~
- ~~(v) Shoring wall sections, Sheet 1, Dwg no. S01-011, Rev P04, prepared by ABC Consultants dated 13 March 2024;~~
- ~~(vi) Shoring wall sections, Sheet 2, Dwg no. S01-012, Rev P04, prepared by ABC Consultants dated 13 March 2024;~~
- ~~(vii) Shoring wall sections, Sheet 3, Dwg no. S01-013, Rev P04, prepared by ABC Consultants dated 13 March 2024;~~
- ~~(viii) Shoring wall sections, Sheet 4, Dwg no. S01-014, Rev P04, prepared by ABC Consultants dated 13 March 2024;~~
- ~~(ix) Shoring wall sections, Sheet 5, Dwg no. S01-015, Rev P04, prepared by ABC Consultants dated 13 March 2024;~~
- ~~(x) Typical site retention details, Dwg no. S01-021, Rev P3, prepared by ABC Consultants dated 05 September 2023;~~
- ~~(xi) Site retention plan with Metro Rail Tunnel, Dwg no. S01-101, Rev P04, prepared by ABC Consultants dated 05 September 2023;~~
- ~~(xii) Site sections with Metro Rail Tunnel, Dwg no. S01-102, Rev P05, prepared by ABC Consultants dated 10 July 2024; and~~
- ~~(xiii) Typical foundation details, Dwg no. S02-011, Rev P2, prepared by ABC Consultants dated 05 September 2023.~~
- (i) Site Retention Plan, Dwg no. S01.001 Rev05, prepared by ABC Consultants dated 19 May 2025;
- (ii) Shoring Surcharge Loading Plan, Dwg no. S01.002 Rev 03, prepared by ABC Consultants dated 19 May 2025;
- (iii) Shoring Wall Elevations – Sheet 1, Dwg no. S01.005, Rev 04, prepared by ABC Consultants dated 19 May 2025;
- (iv) Shoring Wall Elevations – Sheet 2, Dwg no. S01.006, Rev 05, prepared by ABC Consultants dated 19 May 2025;
- (v) Shoring Wall Sections – Sheet 1, Dwg no. S01.011, Rev 03, prepared by ABC Consultants dated 19 May 2025;
- (vi) Shoring Wall Sections – Sheet 2, Dwg no. S01.012, Rev 03, prepared by ABC Consultants dated 19 May 2025;
- (vii) Shoring Wall Sections – Sheet 3, Dwg no. S01.013, Rev 03, prepared by ABC Consultants dated 19 May 2025;
- (viii) Shoring Wall Sections – Sheet 4, Dwg no. S01.014, Rev 03, prepared by ABC Consultants dated 19 May 2025;
- (ix) Shoring Wall Sections – Sheet 5, Dwg no. S01.015, Rev 03, prepared by ABC Consultants dated 19 May 2025;
- (x) Shoring Wall Sections – Sheet 6, Dwg no. S01.016, Rev 03, prepared by ABC Consultants dated 19 May 2025;
- (xi) Typical Site Retention Details, Dwg no. S01.021, Rev 04, prepared by ABC Consultants dated 19 May 2025;
- (xii) Site Retention Plan with Metro Rail Tunnel, Dwg no. S01.101, Rev 02, prepared by ABC Consultants dated 19 May 2025;
- (xiii) Site Sections with Metro Rail Tunnel, Dwg no. S01.102, Rev 1, prepared by ABC Consultants dated 19 May 2025; and
- (xiv) Typical Foundation Details, Dwg no. S02.011, Rev P5, prepared by ABC Consultants dated 19 May 2025.
- (j) ~~Structural Impact Assessment, Document ref. 6466-DLV-MEM-001-G, Revision G, prepared by~~

~~Delve Underground, dated 22 October 2024, including, but not limited to the following appendices:~~

~~(i) Appendix A;~~

- ~~• Detailed Excavation Plan, Drawing ref. S01-200, Revision P1, prepared by ABC Consultants, dated 10 July 2024~~
- ~~• Foundation Plan, Drawing ref. S02-001, Revision P3, prepared by ABC Consultants, dated 10 July 2024~~

~~(ii) Appendix B: Design results;~~

~~(iii) Appendix C: Geotechnical 3D Model; and~~

~~(iv) Appendix D: Excavation Stage,~~

~~subject to any amendments to those documents required by Sydney Metro in accordance with this consent.~~

~~Report on Numerical Analysis, Document ref. 86645.03.R.002.Rev2, prepared by Douglas Partners, dated 13 May 2025.~~

The Certifier must not issue a Construction Certificate for the development until the Certifier has confirmed which documents (including the versions of those documents) apply to the development and the Certifier has confirmed in writing to Sydney Metro that the construction drawings and specifications comply with those documents. The Certifier must not issue a Construction Certificate for the development until written confirmation has been received from Sydney Metro that this condition has been satisfied.

Prior to the commencement of works, the Certifier must provide written verification to Sydney Metro that this condition has been complied with.

#### ~~Condition B21~~

~~The Certifier must not issue a Construction Certificate for the development (excluding demolition) unless the Applicant has submitted to Sydney Metro and Sydney Metro has provided written endorsement of the following items:~~

~~(a) Structural Assessment Report, Rev B, prepared by ABC Consultants, dated 10 July 2024 updated to address the following;~~

~~(i) Clarification on the inclusion of a Geotechnical Reduction Factor of 0.5 applied to an "Allowable End Bearing Capacity" of 6000 kPa;~~

~~Note: This may necessitate modifications to footing sizes, which must be addressed in the updated footing design and structural report/drawings prior to the issuance of the Construction Certificate.~~

~~(ii) Drawing No. S00-005, updated as necessary prior to the issuance of the Construction Certificate;~~

~~(iii) Construction Drawings that clearly indicate final footing details and their relationship to the Sydney Metro First Reserve, ensuring that no foundations or anchors are permitted within the First Reserve.~~

~~(b) Rail Risk Management Plan, Report No. GKA-CRO-001, Rev 1, prepared by GKA Management, dated 16 February 2024, updated to consider any additional hazards, if applicable, as well as the likelihood and consequence of occurrence for all identified hazards;~~

~~(c) clarification on the pile installation method, ensuring consistency between the construction vibration management plan and the method indicated in the structural drawings; and~~

~~(d) details of the extent of dilapidation surveys undertaken of Sydney Metro infrastructure.~~



## 2. Substantially the Same Development

### 2.1. Overview

Section 4.55(1A) of the EP&A Act enables a consent authority to modify a development consent upon application being sought by the applicant or any other person entitled to the act on the consent, provided that the consent authority as part of the assessment process take into consideration the following matters:

*(1A) **Modifications involving minimal environmental impact** A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—*

*(a) it is satisfied that the proposed modification is of minimal environmental impact, and*

*(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*

*(c) it has notified the application in accordance with—*

*(i) the regulations, if the regulations so require, or*

*(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

*(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

*Subsections (1), (2) and (5) do not apply to such a modification.*

The matters prescribed under Section 4.55 are addressed below.

### 2.2. Substantially the same development (s.4.55(1A)(b))

*“Substantially the same development” means “essentially or materially or having the same essence” as defined by Pearlman C.J in Schrodgers Australian Property Management Ltd v Shoalhaven City Council and Anor (1999) NSWLEC 251. Accordingly, it is the substance of the proposal relative to the substance of the development as originally approved.*

The proposed modifications are not considered to change the essential features of the approved development for the following reasons:

- There are no external changes associated with the modification.
- The reduction in excavation does not result in any additional residential or commercial floor space.

- The proposed development does not result in any change to the approved quantum of vehicle, motorcycle and bicycle parking.
- The proposed development does not result in any change to the approved servicing of the site.
- The proposed development does not seek to change the nature and substance of the approved development.
- The proposal maintains the same construction access arrangement for the site, which does not give rise to off-site requirements.

The development (as modified) will remain substantially the same as the development that was originally approved.

### 2.3. Section 4.15(1) Considerations (Section 4.55(3))

Section 4.55(3) of the EP&A Act requires that in determining an application for the modification of a development consent, the Department as the consent authority must take into consideration matters referred to in Section 4.15(1) of the EP&A Act as are of relevance to the development the subject of the modification application. The matters for consideration under Section 4.15(1) of the EP&A Act are considered in Section 6 of this Statement.

Section 4.55(3) of the EP&A Act also requires the consent authority to take into consideration the reasons given by the consent authority (in this case the IPC) for the grant of the consent that is sought to be modified.

The IPC states the following reasons for approval of SSD-66826207:

6.	The Commission's Findings and Determination
141.	The views of the community were expressed through public submissions and comments received (as part of exhibition and as part of the Commission's determination process). The Commission carefully considered all of these views as part of making its decision.
142.	<p>The Commission has carefully considered the Material before it as set out in section 3.1 and has weighed the broader strategic and social benefit of increased housing supply, including affordable housing supply delivered by this development, in the context of the impacts on the environment and local amenity of residents which were set out in section 5. Based on its consideration of the Material, the Commission finds that the Project should be approved subject to conditions of consent for the following reasons:</p> <ul style="list-style-type: none"> <li>• the proposed use is permissible with consent;</li> <li>• the Project will provide diverse housing options, including 15% of the total GFA as in-fill affordable housing dwellings in a mix of typologies for at least 15 years;</li> <li>• the Project meets the objectives of the MU1 zone under the NSLEP;</li> <li>• the Project is consistent with the aims of the NSW Government to increase the supply of well-located housing, including affordable housing, in accordance with the National Housing Accord;</li> <li>• the Project is in an advantageous location close to existing public transport networks, employment centres, services and other amenities;</li> <li>• the Project is an orderly and economic use of the land;</li> <li>• the Project will provide appropriate internal and external amenity for future residents;</li> <li>• the Project will contribute to activation of the public domain and provide additional economic and community uses for the locality;</li> <li>• the Site can physically accommodate the proposed development without significant environmental impacts; and</li> <li>• impacts on surrounding land uses have been minimised where possible and are capable of being further mitigated through conditions of consent.</li> </ul>
143.	<p>For the reasons set out in paragraph 142 above, the Commission has determined that the consent should be approved subject to conditions. These conditions are designed to:</p> <ul style="list-style-type: none"> <li>• prevent, minimise and/or offset adverse environmental impacts;</li> <li>• set standards and performance measures for acceptable environmental performance;</li> <li>• require regular monitoring and reporting; and</li> <li>• provide for the on-going environmental management of the development.</li> </ul>
144.	The reasons for the Decision are given in the Statement of Reasons for Decision dated 23 December 2024.

**Figure 18:** Extract from Statement of Reasons for Decision dated 23 December 2024

Consistent with the reasons stated by the IPC for the grant of consent:

- This modification application does not alter the permissibility of the original proposal or its consistency with local and state planning policies.
- This modification application does not alter the approved built form above ground level.
- This modification application promotes the orderly and economic use of land and will continue to increase the supply of well-located housing, including affordable housing, in a location close to exiting public transport networks, employment centres, services and other amenities.
- The environmental impacts arising from this modification application are consistent with the original proposal in terms of parking provision, bicycle parking, waste and end of trip facilities.
- The impacts on surrounding land uses have been minimised where possible and are capable of being further mitigated through the conditions of consent.

### 3. Section 4.15(1) Assessment – (Section 4.55(3))

The environmental assessment matters relevant to the proposed modified development under Section 4.15(1) (a), (b), (c), (d) and (e) of the Act are addressed below:

#### 3.1. Environmental Planning Instruments

The principal planning instruments applying to the site are addressed in the following sections as relevant to the proposed modifications. The principal planning controls applying to the development are contained in:

- State Environmental Planning Policy (Housing) 2021; and
- North Sydney Local Environmental Plan 2013.

#### 3.2. State Environmental Planning Policy (Housing) 2021 (Housing SEPP)

##### **Chapter 2 – Affordable Housing - Division 1 In-fill affordable housing**

Section 19 of the Housing SEPP includes non-discretionary development standards including parking spaces for dwellings used for affordable housing (Section 19(e)) and parking spaces for dwellings not used for affordable housing (Section 19(f)).

This modification application does result in any change to the approved number of parking spaces for both dwellings used for affordable housing and dwellings not used for affordable housing. The rationalised basement design maintains 190 residential parking spaces and 20 commercial spaces.

##### **Chapter 4 Design of residential apartment development**

A design verification statement is not required to be submitted pursuant to section 102 of the Environmental Planning and Assessment Regulations 2021 because the application is lodged under section 4.55(1A) of the Act.

In relation to the ADG, the modified basement provides sufficient basement storage in accordance with Objective 4G relating to storage. This modification application is accompanied by a statement prepared by Stephen Cox (NSW Registered Architect 6391) at Appendix 3 confirming that the necessary allowance for basement storage has been accommodated in this modification in accordance with Objective 4G Design Criteria 1.

#### 3.3. North Sydney Local Environmental Plan 2012 (SLEP 2013)

The NSLEP 2013 is the comprehensive Local Environmental Plan for the North Sydney Local Government Area (LGA). As demonstrated in the table below the proposal is consistent with the applicable controls for the site.

**Table 6: NSLEP 2013**

PROPOSED MODIFICATIONS	
Clause	Discussion
<b>Part 2 Permitted or prohibited development</b>	
Clause 2.1 Land use zones	The site is zoned MU1 Mixed Use. The proposed modification will remain consistent with the land zoning and objectives for the site. The proposal will maintain the same uses as previously approved under SSD-66826207.
<b>Part 4 Principal development standards</b>	
Clause 4.3 Height of buildings	The amended proposal does not result in any changes to the approved height of the building.
Clause 4.4 Floor space ratio Clause 4.4A Non-residential floor space ratios	The amended proposal does not result in any changes to the approved FSR of the building.
<b>Division 2 General provisions</b>	
Clause 6.10 Earthworks	The amended proposal reduces the overall extent of excavation and will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.
<b>Part 7 Crows Nest Transport Oriented Development Precinct</b>	
Clause 7.2 Application of part	The site is situated within the Crows Nest Transport Orientated Development Precinct.
Clause 7.3 Design guide Clause 7.4 Design excellence Clause 7.5 Affordable housing	These provisions relate to the “ <i>granting of development consent</i> ”. As per Section 4.55(4) of the EP&A Act, the modification of a development consent is taken not to be the granting of development consent. As such, these provisions do not apply to this modification application.

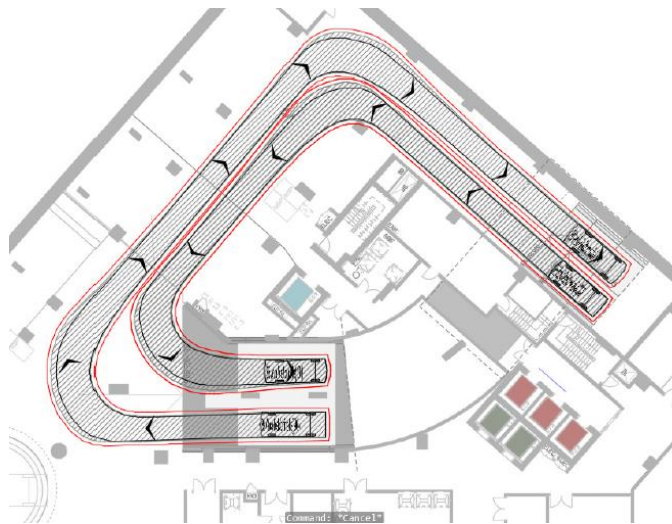
## 4. Environmental Assessment

### 4.1. Transport & Site Servicing

The modified development seeks to retain the approved quantum of car parking, bicycle parking and motorcycle parking. As such, the modification will not trigger any additional traffic impacts compared to the current approval for the site.

In relation to the revised car park design, the amended design is in accordance with AS2890.1 with respect to ramp gradients, circulation aisle widths and car space dimensions. A review of the plans by the traffic engineer confirms that the car park layout complies with the requirements of AS2890.1-2004 for all uses.

The basement design maintains appropriate space for vehicle manoeuvring and passing as indicated in the figure below.



*Figure 19: Swept path analysis - internal vehicle circulation*

Detailed swept path analysis confirming that all car parking spaces can be accessed on all basement levels has been undertaken. This confirms the car park has been designed appropriately to relevant standards and will have adequate vehicle manoeuvrability. This swept path analysis (undertaken by Turner Traffic on behalf of Deicorp) is provided as Appendix A of the accompanying Transport Statement.

In relation to site servicing, consistent with the current approval, an on-site loading dock will be provided to accommodate the various servicing requirements of the uses within the site. A turntable is maintained to allow all vehicles to enter and exit in a forward direction. The modification does not seek an amendment to the approved number of loading dock spaces. Consistent with the approval, all spaces can be accessed independently of one another.

For further information regarding transport and site servicing matters, please refer to the accompanying Transport Statement prepared by JMT Consulting at Appendix 5.



## 4.2. Acoustic Impacts

### 4.2.1. Sydney Metro Corridor

The application is accompanied by a Sydney Metro Operational Impact Assessment prepared by Acoustic Logic at Appendix 12 which discusses the noise and vibration implications from the Sydney Metro Corridor as a result of deleting two basement levels.

The Assessment provides an overview of the methodology and background information ascertained from Sydney Metro. Based on this, ground-borne noise levels have been predicted for the nearest residential areas located at ground floor level at the site. The predicted ground-borne noise levels utilise the measured vibration levels from the suburban train with the highest levels of vibration. The Assessment concludes that predicted ground-borne noise levels are below the criteria for residential spaces and therefore vibration isolation treatment of the structure is not required.

### 4.2.2. Construction Hours

This modification application seeks the deletion of Condition D6 which requires rock breaking, rock hammering, sheet piling, pile driving and similar activities to be carried out only between 9am to 12pm and 2pm to 5pm Monday to Friday and 9am to 12pm on Saturday.

This modification application proposes all construction work to be carried out in accordance with Condition D3 which specifies the following hours of construction:

- Between 7am and 6pm, Mondays to Fridays inclusive;
- Between 8am and 1pm, Saturdays; and
- No work to be carried out on Sundays or public holidays.

The hours of construction provided in Condition D3 are consistent with the Draft Environment Protection Authority (EPA) Construction Noise Guideline (2020) (Draft Guideline) and Department of Environment and Climate Change (DECC) Interim Construction Noise Guideline 2009. The Draft Guideline does not specify whether construction hours are continuous and only states standard hours of construction work. The Draft Guideline provides the following recommended standard hours at Section 2.2:

#### 2.2.2. Recommended standard hours

Work should be scheduled during the recommended standard hours for construction work shown in **Table 1** unless work outside these hours can be justified as described in **section 2.2.3**.

**Table 1 Recommended standard hours for construction work**

Work type	Weekday	Saturday	Sunday or public holiday
Normal construction	0700 to 1800	0800 to 1300	No work
Blasting	0900 to 1700	0900 to 1300	No blasting

The relevant authority (consent, determining or regulatory) may impose more or less stringent construction hours. Development subject to complying development certificates cited in clause 20C(6) of the *State Environmental Planning Policy (Infrastructure) 2007* have alternative working hours to those in Table 1.

It is acknowledged that Condition D10 of the consent specifies that any work generating high

noise impact (i.e. work exceeding a NML of LAeq 75dBA) as measured at any Sensitive Receiver is only undertaken in continuous blocks of no more than three hours, with at least a one hour respite between each block of work generating high noise impact, where the location of the work is likely to impact the same receivers.

Acoustic Logic has independently considered the proposed deletion of Condition D6 and has advised that potential noise and vibration impacts from associated construction activities can be adequately managed and controlled given recommendations in the Construction Noise and Vibration Management Plan (as approved) are properly adopted. Acoustic Logic has further provided that Condition of Consent D10 is sufficient for noise mitigation for highly noise generated activities and their modelled impact on nearby receivers which is limited to specific equipment and when work is close to the boundary. This modification application is accompanied by a memorandum from Acoustic Logic stating that given the safeguards set by the approved Construction Noise and Vibration Management Plan and Condition D10, that Condition D6 is redundant and can be deleted.

The imposition of Condition D6 is considered an oversimplified approach to regulating noise impacts associated with the construction program. The construction process including excavation, drilling, piling, shoring, earth moving and removal and retention among a variety of other concurrent processes is complex, time sensitive, resource intensive and is highly inefficient if regularly paused. There are a variety of trades, machinery and deliveries to and from the site operating concurrently which heavily rely on a steady stream of operations to be maintained throughout the work day, no different to construction programs for infrastructure projects. Condition D6 as proposed will likely extend these processes by a further 20-30%.

Further, it is noted that there are two development applications which have been approved by the Sydney North Planning Panel for sites nearby in the St Leonards and Crows Nest localities. In both scenarios, the approved construction hours are less stringent than those proposed by the Department and the consents do not impose restrictions on rock breaking, rock hammering, sheet piling, pile driving and other similar activities. DA 161/20 relates to an approval for a 16 storey shop top mid-block development and DA 442/21 relates to an approval for a development containing 74 apartments and nine townhouses.

**Table 7: Nearby DAs approved by the Sydney North Planning Panel**

DA No.	Site Address	Approved Construction Hours													
161/20	23-35 Atchison Street, St Leonards	<p><b>Condition E23</b></p> <p>E23. Construction activities and works approved under this consent must be carried out only within the hours stipulated in the following table:</p> <table> <tr> <th colspan="3">Standard Construction Hours</th></tr> <tr> <th>Location</th><th>Day</th><th>Hours</th></tr> <tr> <td rowspan="3">B3 Commercial Core B4 Mixed Use</td><td>Monday – Friday</td><td>7.00am – 7.00pm</td></tr> <tr> <td>Saturday</td><td>8.00am – 1.00pm</td></tr> <tr> <td>Sunday Public holiday</td><td>No work permitted</td></tr> </table>	Standard Construction Hours			Location	Day	Hours	B3 Commercial Core B4 Mixed Use	Monday – Friday	7.00am – 7.00pm	Saturday	8.00am – 1.00pm	Sunday Public holiday	No work permitted
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	Saturday	8.00am – 1.00pm													
	Sunday Public holiday	No work permitted													
442/21	27-57 Falcon Street, Crows Nest	<b>Condition E18</b>													

		<p>E18. Construction activities and works approved under this consent must be carried out only within the hours stipulated in the following table:</p> <table border="1"> <thead> <tr> <th colspan="3">Standard Construction Hours</th></tr> <tr> <th>Location</th><th>Day</th><th>Hours</th></tr> </thead> <tbody> <tr> <td rowspan="3">All Other Zones</td><td>Monday - Friday</td><td>7.00 am - 5.00 pm</td></tr> <tr> <td>Saturday</td><td>8.00 am - 1.00 pm</td></tr> <tr> <td>Sunday, Public holiday</td><td>No work permitted</td></tr> </tbody> </table>	Standard Construction Hours			Location	Day	Hours	All Other Zones	Monday - Friday	7.00 am - 5.00 pm	Saturday	8.00 am - 1.00 pm	Sunday, Public holiday	No work permitted
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All Other Zones	Monday - Friday	7.00 am - 5.00 pm													
	Saturday	8.00 am - 1.00 pm													
	Sunday, Public holiday	No work permitted													

### 4.3. Stormwater

The application is accompanied by an updated Stormwater Management Report and Stormwater drawing package prepared by Mott Macdonald.

The principal change relates to the introduction of a stormwater pump station and sewer pump station below the fifth basement level. The stormwater pump station collects seepage water from around the perimeter of the basement and any surface water from the ground floor that cannot gravitate to the OSD tank. Pumps are installed within the tank to propel the stormwater to the OSD tank. The sewer pump station collects discharge from the retail grease arrestors and end of trip facilities. Pumps are installed within the tank to propel the sewer to the gravity sewer connection point.

The proposal does not result in any changes to flooding, on-site detention, stormwater quality or erosion and control measures.

## 5. Conclusion

This application seeks approval for a reduction in the extent of the basement levels from seven levels (approved) to five levels (proposed). The application also seeks approval for the deletion of Condition D6 in its entirety which requires rock breaking, rock hammering, sheet piling, pile driving and similar activities to be undertaken between 9am to 12pm and 2pm to 5pm Monday to Friday and 9am to 12pm on Saturday.

As detailed in this report, the proposed modification warrants approval by the Department for the following reasons:

- The proposal is considered substantially the same development as the development for which consent was originally granted.
- The proposal remains consistent with the aims and objectives of the relevant environmental planning instruments and will not result in any adverse impacts on the amenity of the locality.
- The proposal will have no adverse environmental impacts on the site or the properties in the vicinity of the site, given that there is no change to the overall final building form, scale, design, materials and function, as originally approved.
- The proposal will be in the public interest based on these benefits and the lack of adverse impacts.