

Development Consent

Section 4.38 of the Environmental Planning and Assessment Act 1979

As the Minister for Planning, I approve the Development Application referred to in Schedule 1, subject to the conditions specified in Schedule 2.

These conditions are required to:

- prevent, minimise, or offset adverse environmental impacts;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring and reporting; and
- provide for the ongoing environmental management of the development

Sydney

2018

File: SSD 8874

SCHEDULE 1

Application Number:

SSD 8874

Applicant:

Sydney Metro

Consent Authority:

Minister for Planning

Site:

155-167 Miller Street, 181 Miller Street & 187-189 Miller Street, North Sydney

(SP 35644 (which incorporates lots 40 and 41 of Strata Plan 81092 and lots 37, 38 and 39 of Strata Plan 79612), Lot 15/DP 69345, Lot 1 & 2/DP 123056, Lot 10/DP 70667, Lot A/DP 160018, Lot 1/DP 633088, Lot 1/DP 1230458)

Development:

Concept Development Application for Victoria Cross Over Station Development including:

- a maximum building envelope, including street-wall and setbacks for the over station development
- a maximum building height of RL 230, or 168 metres, **providing:**
 - ~~approximately 40 commercial storeys and 2 additional storeys for rooftop plant for the high-rise portion of the building envelope~~
 - ~~approximately 13 storeys for the lower eastern portion of the building envelope at RL 118 or 55 metres~~
- a maximum gross floor area (GFA) of ~~60,000~~ 61,500m², excluding station floor space
- basement car parking for a maximum of 150 parking spaces.

CONSOLIDATED INSTRUMENT

Summary of Modifications

SSD 8874	Approved by Minister for Planning on 18 December 2018
SSD 8874 MOD1	Approved by Minister for Planning and Public Spaces on 6 July 2020, for: <ul style="list-style-type: none">• reduce the building envelope above the Miller Street special area setback area• relocate building massing from the low-rise levels of the tower to the high-rise levels of the tower• reduce the Berry Street setback from 5 metres to 4.5 metres• increase the maximum gross floor area from 60,000m² to 61,500m² (excluding station floor space under separate approval)• allow projections beyond the building envelope.

MODIFICATION KEY					
SSD 8874	Approved 18.12.18	SSD 8874 MOD 1	Approved 6.07.20		

CONSOLIDATED INSTRUMENT

CONTENTS

DEFINITIONS	IV
PART A TERMS OF CONSENT.....	5
DEVELOPMENT DESCRIPTION	5
DETERMINATION OF FUTURE DEVELOPMENT APPLICATIONS.....	5
LAPSING OF APPROVAL.....	5
LEGAL NOTICES	5
PLANNING SECRETARY AS MODERATOR	6
EVIDENCE OF CONSULTATION	6
COMPLIANCE.....	6
APPLICABILITY OF GUIDELINES	6
BUILDING ENVELOPES AND MAXIMUM HEIGHT.....	6
MAXIMUM GROSS FLOOR AREA	6
MAXIMUM CAR PARKING.....	6
AIRSPACE PROTECTION	6
DESIGN GUIDELINES	7
DESIGN EXCELLENCE	7
PART B CONDITIONS TO BE SATISFIED IN FUTURE DETAILED DEVELOPMENT APPLICATION(S).....	8
BUILT FORM AND URBAN DESIGN	8
HERITAGE IMPACT ASSESSMENT	8
ENVIRONMENTAL PERFORMANCE / ESD.....	8
WIND IMPACTS	8
SECURITY and CRIME ASSESSMENT.....	8
FIRE AND RESCUE ASSESSMENT.....	8
CONSTRUCTION IMPACT ASSESSMENT	9
TRAFFIC, ACCESS AND CAR PARKING.....	9
UTILITIES.....	9
NOISE AND VIBRATION.....	9
FLOODING AND STORMWATER.....	10
ADVISORY NOTES	11

MODIFICATION KEY					
SSD 8874	Approved 18.12.18	SSD 8874 MOD 1	Approved 6.07.20		

CONSOLIDATED INSTRUMENT

DEFINITIONS

Applicant	Sydney Metro, or any person carrying out any development to which this consent applies
Conditions of this consent	Conditions contained in Schedule 2 of this document
Council	North Sydney Council
CSSI	Critical State Significant Infrastructure
CSSI Approval	The approval of the CSSI project (SSI 15_7400) under the Environmental Planning and Assessment Act 1979 for the construction of the Sydney City & Southwest Chatswood to Sydenham project, as amended by subsequent modifications
Department	NSW Department of Planning and Environment
Development	The development described in the EIS and Response to Submissions comprising the Victoria Cross Over Station Concept, as modified by the conditions of this consent.
EIS	The Environmental Impact Statement titled <i>Victoria Cross Station Over Station Development Concept State Significant Development Application</i> , prepared by Mecone dated 18 May 2018, submitted with the application for consent for the development, including any additional information provided by the Applicant in support of the application
Environment	Includes all aspects of the surroundings of humans, whether affecting any human as an individual or their social groupings
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
Minister	NSW Minister for Planning (or delegate)
Operation	The carrying out of the approved purpose of the development upon completion of construction.
Planning Secretary	Planning Secretary under the EP&A Act, or nominee
OSD or over station development	Includes non-rail related development that may occupy land or airspace above, within or in the immediate vicinity of the Sydney Metro CSSI but excluding spaces and interface works such as structural elements that may be constructed as part of the CSSI Approval to make provision for future development
RTS or Response to Submissions	The Applicant's response to issues raised in submissions received in relation to the application for consent for the development under the EP&A Act.

MODIFICATION KEY					
SSD 8874	Approved 18.12.18	SSD 8874 MOD 1	Approved 6.07.20		

CONSOLIDATED INSTRUMENT

SCHEDULE 2

CONDITIONS OF CONSENT FOR CONCEPT DEVELOPMENT APPLICATION

PART A TERMS OF CONSENT

DEVELOPMENT DESCRIPTION

- A1. Consent is granted to the 'Development' as described in Schedule 1 and the EIS, as amended by the RtS and the conditions contained in this development consent.

TERMS OF CONSENT

- A2. The development may only be carried out:
- (a) in compliance with the conditions of this consent;
 - (b) in accordance with all written directions of the Planning Secretary;
 - (c) in accordance with the EIS and Response to Submissions;
 - (d) [in accordance with the Modification Application Planning Report, dated October 2019 and Response to Submissions, dated 1 May 2020, both prepared by Urbis;](#)
 - (e) in accordance with the approved plans in the table below:

Architectural Drawings – Building Envelope prepared by Bates Smart		
Dwg. No.	Name of Plan	Date
A01.001 Rev 3 8	Building Envelope - Indicative Ground Floor Plan	08.08.18 22.04.20
A01.002 Rev 3 8	Building Envelope - Miller Street Elevation	08.08.18 22.04.20
A01.003 Rev 3 8	Building Envelope - East West Section	08.08.18 22.04.20
A01.004 Rev 3 8	Building Envelope - North West Axonometric	08.08.18 22.04.20
A01.005 Rev 3 8	Building Envelope - South West Axonometric	08.08.18 22.04.20

- A3. Consistent with the requirements in this consent, the Planning Secretary may make written directions to the Applicant in relation to:
- (a) the content of any strategy, study, system, plan, program, review, audit, notification, report or correspondence submitted under or otherwise made in relation to this consent, including those that are required to be, and have been, approved by the Planning Secretary; and
 - (b) the implementation of any actions or measures contained in any such document referred to in condition A3(a) above.
- A4. The conditions of this consent and directions of the Planning Secretary prevail to the extent of any inconsistency, ambiguity or conflict between them and a document listed in condition A2(c) or A2(d). In the event of an inconsistency, ambiguity or conflict between any of the documents listed in condition A2(c) or A2(d), the most recent document prevails to the extent of the inconsistency, ambiguity or conflict.

DETERMINATION OF FUTURE DEVELOPMENT APPLICATIONS

- A5. In accordance with Section 4.22 of the EP&A Act, all development under the Concept and the subsequent stages are to be subject of future development applications.
- A6. The determination of future development applications are to be generally consistent with the terms of development consent SSD 8874 as described in Schedule 1 and subject to the conditions in Part B, Schedule 2.

LAPSING OF APPROVAL

- A7. This consent will lapse five (5) years from the date of consent, unless works associated with the development have physically commenced.
- A8. This consent does not allow any components of the concept development application to be carried out without further approval or prior consent being granted.

LEGAL NOTICES

- A9. Any advice of notice to the consent authority shall be served on the Planning Secretary.

MODIFICATION KEY					
SSD 8874	Approved 18.12.18	SSD 8874 MOD 1	Approved 6.07.20		

CONSOLIDATED INSTRUMENT

PLANNING SECRETARY AS MODERATOR

A10. In the event of a dispute between the Applicant and a public authority in relation to an application requirement in this approval or relevant matter relating to the development, either part may refer the matter to the Planning Secretary for resolution. The Planning Secretary's resolution of the matter shall be binding on the parties.

EVIDENCE OF CONSULTATION

- A11. Where conditions of this consent require consultation with an identified party, the Applicant must:
- (a) consult with the relevant party prior to submitting the subject document to the Planning Secretary for approval; and
 - (b) provide details of the consultation undertaken including:
 - (i) the outcome of that consultation, matters resolved and unresolved; and
 - (ii) details of any disagreement remaining between the party consulted and the Applicant and how the Applicant has addressed the matters not resolved.

COMPLIANCE

A12. The Applicant must ensure that all of its employees, contractors (and their sub-contractors) are made aware of, and are instructed to comply with, the conditions of this consent relevant to activities they carry out in respect of the development.

APPLICABILITY OF GUIDELINES

- A13. References in the conditions of this consent to any guideline, protocol, Australian Standard or policy are to such guidelines, protocols, Standard or policies in the form they are in as at the date of this consent.
- A14. However, consistent with the conditions of this consent and without altering any limits or criteria in this consent, the Planning Secretary may, when issuing directions under this consent in respect of ongoing monitoring and management obligations, require compliance with an updated or revised version of such a guideline, protocol, Standard or policy, or a replacement of them.

BUILDING ENVELOPES AND MAXIMUM HEIGHT

- A15. Future development application(s) for the development must demonstrate that the building is contained within the building envelopes consistent with the plans listed in Condition A2, **with the exception of the following architectural features:**
- (a) Sunshades and associated bracing on the northern elevation of the tower may project beyond the approved envelope by up to 500 mm;
 - (b) Vertical sunshades and associated bracing on the southern elevation of the tower (up to RL 126) may project beyond the approved envelope by up to 110 mm.
- A16. Building height is to be measured in accordance with the definition under North Sydney Local Environmental Plan 2013.
- A17. The maximum height for the development shall be consistent with the building envelope elevation plans for the building as detailed below:

Part	Maximum Height - RL to Australian Height Datum
Tower maximum height	RL 230
Southern edge/extent of tower chamfer along southern edge	RL 227
Eastern podium form	RL 118 89

MAXIMUM GROSS FLOOR AREA

A18. The maximum GFA for the over station development shall not exceed ~~60,000~~ 61,500 sqm.

MAXIMUM CAR PARKING

A19. The maximum number of basement car parking spaces relating to the Over Station Development is 150 spaces.

AIRSPACE PROTECTION

- A20. For the purposes of controlled activities within the prescribed airspace for Sydney Airport, the building must not exceed a maximum height of RL 230 metres Australian Height Datum, inclusive of all lift over-runs, vents, chimneys, aerials, antennas, lightning rods, any roof top garden plantings, exhaust flues, etc
- A21. The building must be obstacle lit by medium intensity steady red lighting during the hours of darkness at the highest point of the building. Obstacle lights are to be arranged to ensure the building can be observed in a 360

MODIFICATION KEY					
SSD 8874	Approved 18.12.18	SSD 8874 MOD 1	Approved 6.07.20		

CONSOLIDATED INSTRUMENT

degree radius as per subsection 9.4.3 of the Manual of Standards Part 139 – Aerodromes (MOS Part 139). Characteristics for medium intensity lights are stated in subsection 9.4.7 of MOS Part 139.

- A22. The proponent must ensure obstacle lighting arrangements have a remote monitoring capability, in lieu of observations every 24 hours, to alert SACL reporting staff of any outage. For detailed requirements for obstacle lighting monitoring within the OLS of an aerodrome, refer to subsection 9.4.10 of the MOS Part 139.
- A23. The proponent must advise Airservices Australia at least 3 business days prior to the controlled activity commencing by emailing ifp@airservicesaustralia.com and quoting SY-CA-562.
- A24. Separate approval must be sought under the *Airports (Protection of Airspace) Regulations 1996* for any construction equipment (i.e. cranes) required to construct the building. Construction cranes 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 (i.e. cranes) be obtained prior to any commitment to construct.
- A25. At the completion of the construction of the building, a certified surveyor is to notify (in writing) SACL of the finished height of the building.

DESIGN GUIDELINES

- A26. Prior to the lodgement of the first detailed development application, the Applicant shall revise the Sydney Metro Victoria Cross Over Station Development Design Guidelines (October 2018), to the satisfaction of the Planning Secretary, as follows:
 - (a) insert objectives and performance criteria for public domain and place integration with the CSSI works including:
 - (i) shared aims and objectives between the CSSI and OSD in relation to user experience and comfort, desired quality standards and scope/range of considerations (i.e. wayfinding and signage strategies, safety and security, activation and innovation and any particular emphasis needed for important pedestrian connections and spaces)
 - (ii) shared aims and objectives between the CSSI and OSD in relation to movement and connectivity
 - (b) amend Clause 4.5-4 (*Public Domain and Open Space*) as follows:
 - (i) 4) A continuous awning or coverings of a sufficient depth are to be provided above the Miller Street frontage **and extend as far as practical to the Berry Street frontage. The covered area is to:**
 - ~~fer~~ **provide** protection to pedestrians from the weather
 - **provide active retail uses with opportunities for complementary outdoor uses**
 - **integrate and support capacity for pedestrian access and connection to and from the station entrance and the over station development**
- A27. The updated Design Guidelines referred to in Condition A26 above, and the resulting design approach regarding integration of the OSD with the CSSI, is to be reviewed by the Sydney Metro Design Review Panel prior to the lodgement of any detailed development application.

DESIGN EXCELLENCE

- A28. Prior to the lodgement of the first detailed development application, the Applicant shall submit the final version of the Sydney Metro Design Excellence Strategy to the satisfaction of the Planning Secretary including deletion of the disclaimer in Section 1.1 being: **Disclaimer: The processes described in this document are indicative only and are based on a generic tendering process. Aspects of the process described may change.**
- A29. The Design Excellence Strategy is applicable only to the Victoria Cross OSD and is not endorsed under this consent as a Strategy which applies to other sites.

END OF PART A

MODIFICATION KEY					
SSD 8874	Approved 18.12.18	SSD 8874 MOD 1	Approved 6.07.20		

PART B CONDITIONS TO BE SATISFIED IN FUTURE DETAILED DEVELOPMENT APPLICATION(S)

BUILT FORM AND URBAN DESIGN

- B1. The detailed development application(s) shall address compliance with:
- (a) the Design Guidelines as endorsed by the Planning Secretary pursuant to conditions A26 and A27
 - (b) the Design Excellence Strategy as endorsed by the Planning Secretary pursuant to condition A28, including the advice of the Sydney Metro Design Review Panel and the Victoria Cross Design Excellence Evaluation Panel as contained within the Design Excellence Report.
- B2. The following elements of the concept development application are not inconsistent with the concept proposal but are subject to further assessment with the relevant detailed development application(s):
- (a) architectural roof features such as projecting fins or poles
 - (b) design and use of rooftop terrace areas
 - (c) indicative signage zones, following preparation of a Signage Strategy
 - (d) subdivision
- B3. The detailed development application shall address the following built form considerations:
- (a) building massing or facade detailing to provide visual reference to the height of surrounding buildings including the MLC Building
 - (b) modulation and expression of built forms within the articulation zone are to break up the bulk and scale of the building and minimise visual impacts above publicly accessible space
 - (c) minimisation of privacy impacts to the adjoining Alexander Apartments through suitable placement of building services and lift cores and appropriate architectural treatments or devices
 - (d) wind mitigation measures arising from compliance with Condition B6 below
 - (e) integration with the approved Metro station

HERITAGE IMPACT ASSESSMENT

- B4. Future detailed development application(s) shall include a detailed Heritage Impact Assessment and a Heritage Interpretation Strategy for the proposed works, prepared in consultation with the Heritage Council of NSW. The Heritage Impact Assessment must address the recommendations of the concept stage Heritage Impact Assessment dated 15 May 2018 prepared by OCP Architects.

ENVIRONMENTAL PERFORMANCE / ESD

- B5. Future detailed development application(s) must demonstrate how the principles of ecologically sustainable development (ESD) have been incorporated into the design, construction and ongoing operation of the proposal. The ESD credentials of the detailed development application shall be in accordance with the framework, core objectives and visions of the ESD Report lodged with the EIS prepared by *AECOM Australia*.

WIND IMPACTS

- B6. The detailed development application shall be accompanied by a Wind Impact Assessment including computer modelling of the detailed building form. Compliance shall be demonstrated with the *Lawson wind comfort criteria* through the incorporation of mitigation measures within the detailed design.

SECURITY AND CRIME ASSESSMENT

- B7. Future detailed development application(s) shall be accompanied by a Security and Crime Risk Assessment prepared in consultation with NSW Police having regard to NSW Police publication "*Safe Places*" *Vehicle Management: A comprehensive guide for owners, operators and designers* and Crime Prevention Through Environmental Design (CPTED) principles.

FIRE AND RESCUE ASSESSMENT

- B8. Future detailed development application(s) shall be accompanied by a draft Fire and Rescue Assessment / Engineering Brief for the OSD prepared in consultation with Fire and Rescue NSW providing relevant details of:
- (a) The various sectors within the Victoria Cross Metro site served by independent fire systems (such as the OSD, the underground and aboveground metro sector, etc)
 - (b) Fire engineering analysis of the pedestrian connection interfaces between the sectors and the sectors themselves, having regard to emergency occupant egress, fire and smoke compartmentation, smoke hazard management and fire fighting intervention
 - (c) Adequacy of fire and life safety systems within the Victoria Cross Metro site in relation to the fire hazards of the Sydney Metro
 - (d) Design of fire hydrant systems for OSD elements that exceed 135 m

MODIFICATION KEY					
SSD 8874	Approved 18.12.18	SSD 8874 MOD 1	Approved 6.07.20		

CONSOLIDATED INSTRUMENT

- (e) Future consultation to be undertaken with Fire and Rescue NSW in respect of the final design and construction of the OSD and operational compatibility of the Victoria Cross Metro site's proposed fire and life safety systems.

CONSTRUCTION IMPACT ASSESSMENT

B9. Future detailed development application(s) shall provide analysis and assessment of the impacts of construction and include:

- (a) Construction Traffic Management Plan as per condition B11(e)
- (b) Cumulative Construction Impact Assessment (i.e. arising from concurrent construction activity)
- (c) Noise and Vibration Impact Assessment
- (d) Community Consultation and Engagement Plans
- (e) Construction Waste Management Plan
- (f) Air Quality Management Plan

The plans referred to above may be prepared as part of a Construction Environmental Management Plan prepared and implemented under the conditions of any consent granted by future development applications, having regard to the Construction Environmental Management Framework and Construction Noise and Vibration Strategy prepared for the City Metro City and Southwest (CSSI 7400).

TRAFFIC, ACCESS AND CAR PARKING

B10. Future detailed development application(s) shall be accompanied by a Traffic and Transport Impact Assessment.

B11. Future detailed development application(s) shall incorporate the following:

- (a) include a strategy, including possible technological solutions, that will manage conflict between loading dock, parking area access and bike parking access
- (b) demonstration of manoeuvring of larger/longer vehicles via Denison Street including swept path analysis, if larger or longer vehicles are required to service the OSD compared to the station infrastructure
- (c) demonstration of wayfinding infrastructure and public exposure to bicycle parking within the basement
- (d) consideration of responsibilities, timing and commitments to the development of pedestrian facilities and bicycle infrastructure proposed to be undertaken by other parties
- (e) a Construction Traffic Management Plan (CTMP) prepared in consultation with the Sydney Coordination Office and North Sydney Council, and to the satisfaction of the relevant roads authorities. The CTMP shall include, but not be limited to:
 - (i) construction car parking strategy
 - (ii) haulage movement numbers / routes including contingency routing
 - (iii) detailed travel management strategy for construction vehicles including staff movements;
 - (iv) maintaining property accesses
 - (v) maintaining bus operations including routes and bus stops
 - (vi) maintaining pedestrian and cyclist links / routes
 - (vii) independent road safety audits on construction-related traffic measures
 - (viii) measures to account for any cumulative activities / work zones operating simultaneously.

B12. Independent road safety audits are to be undertaken for all stages of detailed design development involving road operations and traffic issues relevant to the OSD. Any issues identified by the audits shall be closed out in consultation with the Sydney Coordination Office and North Sydney Council to the satisfaction of the relevant road authorities.

UTILITIES

B13. Future detailed development application(s) shall address the existing capacity and any augmentation requirements of the development for the provision of utilities, including staging of infrastructure through the preparation of an infrastructure / utility management plan in consultation with relevant agencies and service providers.

NOISE AND VIBRATION

B14. Future detailed development application(s) shall be accompanied by a Noise and Vibration Impact Assessment that identifies and provides a quantitative assessment of the main noise generating sources and activities during operation including consideration of noise and vibration impacts associated with commercial development above a train station. Details are to be included outlining any mitigation measures necessary to ensure the amenity of future sensitive land uses on the neighbouring sites is protected during the operation of the development.

MODIFICATION KEY					
SSD 8874	Approved 18.12.18	SSD 8874 MOD 1	Approved 6.07.20		

CONSOLIDATED INSTRUMENT

FLOODING AND STORMWATER

B15. Future detailed development application(s) shall be accompanied by a Flood Impact Assessment.

END OF PART B

MODIFICATION KEY					
SSD 8874	Approved 18.12.18	SSD 8874 MOD 1	Approved 6.07.20		

CONSOLIDATED INSTRUMENT

ADVISORY NOTES

APPEALS

- AN1 The Applicant has the right to appeal to the Land and Environment Court in the matter set out in the EP&A Act and the EP&A Regulation (as amended).
- AN2 The Applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

MODIFICATION KEY					
SSD 8874	Approved 18.12.18	SSD 8874 MOD 1	Approved 6.07.20		