



Martin Place Station Precinct – North and South Sites Stage 2 Modifications

Modification of approved construction hours
State Significant Development Modification Assessment
(SSD 9270 MOD 1 and SSD 9326 MOD 2)
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Glossary

Abbreviation	Definition
CEMP	Construction Environmental Management Plan
CFEMP	Construction Framework Environmental Management Plan
CNVIS	Construction Noise and Vibration Impact Statement
CNVMP	Construction Noise and Vibration Management Sub-Plan
Council	City of Sydney Council
CPTMP	Construction Pedestrian and Traffic Management Plan
Department	Department of Planning, Industry and Environment
EIS	Environmental Impact Statement
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPI	Environmental Planning Instrument
GFA	Gross Floor Area
LEP	Local Environmental Plan
Minister	Minister for Planning and Public Spaces
Planning Secretary	Secretary of the Department of Planning, Industry and Environment
RMS	Roads and Maritime Services, TfNSW
SEARs	Planning Secretary's Environmental Assessment Requirements
SEPP	State Environmental Planning Policy
SRD SEPP	State Environmental Planning Policy (State and Regional Development) 2011
SSD	State Significant Development
SSI	State Significant Infrastructure
TfNSW	Transport for NSW

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1 Introduction

This report provides the NSW Department of Planning, Industry and Environment's (the Department's) assessment of two related applications to modify the following State significant development (SSD) consents:

- **SSD-9270** - Martin Place Station Precinct North Site Stage 2 (SSD-9270-Mod-1)
- **SSD-9326** - Martin Place Station Precinct South Site Stage 2 (SSD-9326-Mod-2)

These consents relate to the construction of commercial towers above the entrances to the Martin Place Metro Station. The modification applications seek to permit additional circumstances where out-of-hours construction works may be undertaken for the over-station developments, to align with the construction of the Metro station (approved under SSI 7400) on the same sites. Construction of the Metro infrastructure is underway and work for the Metro station and towers above will occur concurrently.

The application has been lodged by Macquarie Corporate Holdings Pty Ltd (the Applicant) pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

1.1 Background

The Martin Place Metro Precinct is located in the central business district of the City of Sydney Local Government Area (LGA), between Castlereagh and Elizabeth Streets. The over-station developments are located on two separate sites to the north and south of Martin Place, above the respective entrances to the new metro station (as shown in **Figure 1**).

The two sites comprise:

- North site: 50 Martin Place, 9-19 Elizabeth Street, 8-12 Castlereagh Street, 5 Elizabeth Street, 7 Elizabeth Street and 55 Hunter Street
- South site: 39-49 Martin Place.

Demolition and construction activities for the metro station and two entrances has commenced on both sites in accordance with the Critical State Significant Infrastructure approval for Sydney Metro City and Southwest (CSSI 7400). The north site includes 50 Martin Place, which contains a 10 storey State heritage-listed commercial building that will be retained on the site.

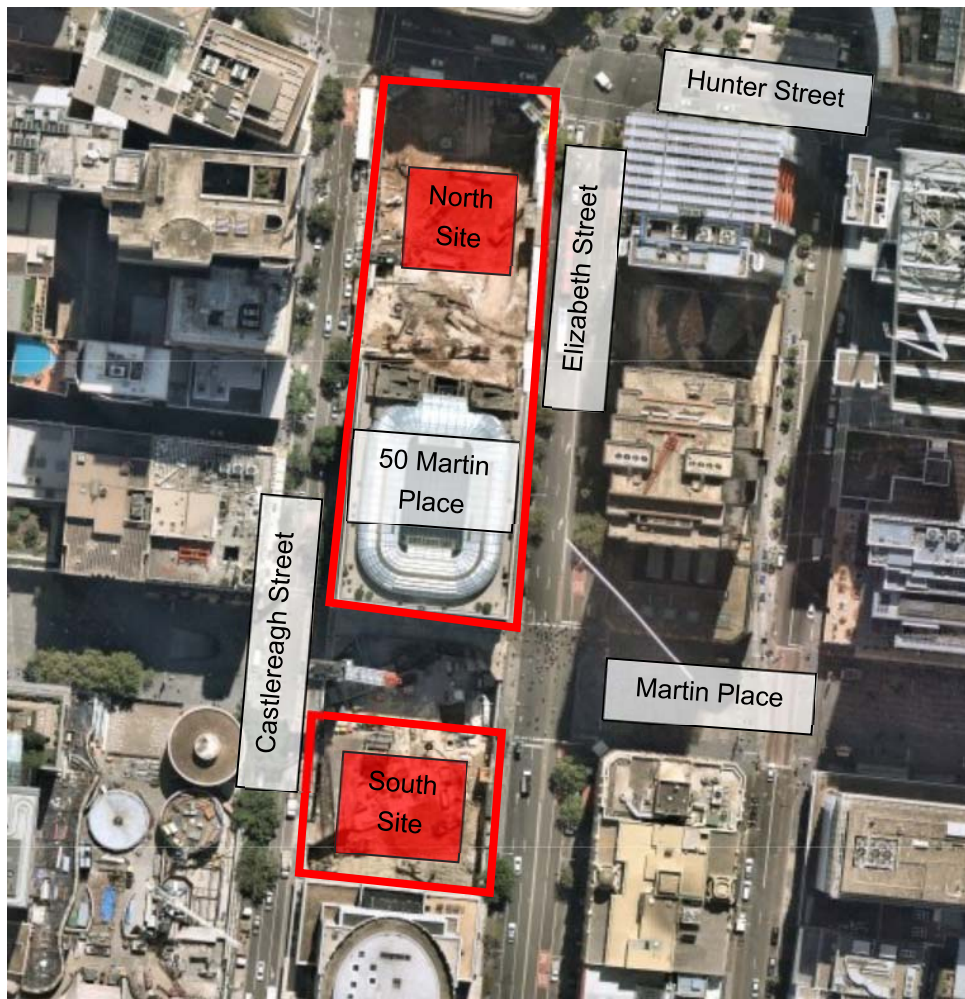


Figure 1 | Local context map (Source: Nearmap with annotations added)

1.2 Approval history

North Site

On 13 August 2019, development consent was granted by the Minister for Planning and Public Spaces for the Stage 2 development of the Martin Place Station Precinct North site (SSD 9270). The consent permits the following works:

- Construction and use of a 39-storey (plus rooftop plant) commercial tower above the northern entrance of the new Martin Place Metro Station; comprising 75,521m² gross floor area (GFA), including 1,017m² for retail use and 74,504m² for office use
- Works to integrate with the Station design, including over station development areas within the station building for plant, services, end of trip facilities, retail and office spaces.

This modification is the first modification of the consent (SSD 9270).

A subsequent modification application (SSD-9270- Mod-2) was lodged by the Applicant on 20 July 2020 for design development changes, including increasing the eastern tower setback from podium

and increasing the spandrel heights on Level 3 and 4. The modification has been approved on 1 December 2020.

South Site

On 13 August 2019, development consent was granted by the Minister for Planning and Public Spaces for the Stage 2 development of the Martin Place Station Precinct South site (SSD 9326). The consent permits the following works:

- Construction and use of a 28-storey (plus rooftop plant) commercial tower with a nine storey podium above the entrance of the new Martin Place Metro Station; comprising 37,553m² GFA, including 1,222m² for retail use and 36,331m² for office use
- Works to integrate with the Station design, including over station development areas within the station building for plant, services, end of trip facilities, retail and office spaces.

On 31 July 2020, the Applicant submitted a modification application (SSD-9326-Mod-1) seeking to align the eastern façade of the tower with the eastern site boundary and other internal changes. The modification has been approved on 1 December 2020.

This modification application is the second modification of the consent (SSD 9326).

2 Proposed modification

The modification applications seek to permit additional circumstances where out-of-hours construction works may be undertaken for the over-station developments, to align with the construction of the Martin Place Metro station (approved under CSSI 7400).

The Applicant submits that the Martin Place Metro Station (under condition E44 of CSSI 7400) permits additional variations to construction hours, above those permitted for the over station developments (under Condition D3 of SSD 9270 and SSD 9326). The Applicant requests the out-of-hours works for the over-station developments be aligned with the CSSI consent, in order to facilitate a whole-of-precinct construction methodology.

Proposed amendments to Condition D3

The Applicant proposes to modify Condition D3 of each of the over station development consents to include the additional circumstances permitted under Condition E44 of CSSI 7400, in addition to certain specific circumstances that will allow high risk work to be undertaken outside of standard construction hours on grounds of public safety.

Condition D3 is also proposed to be amended to require the preparation of an updated Construction Environmental Management Plan (CEMP) or Construction Framework Environmental Management Plan (CFEMP) to identify the types and duration of any out-of-hours construction activities and include a full noise and vibration impact assessment, associated mitigation measures and any necessary management plans for the extended hours works prior to the issue of a Construction Certificate.

The Applicant notes that standard construction time periods will continue to apply (as stipulated by Conditions D1 and D2 of the over station development consents) in all other circumstances except as proposed to be permitted by the proposed amendment of Condition D3.

3 Statutory context

3.1 Scope of modifications

Section 4.55(1A) of the EP&A Act outlines the matters that a consent authority must take into consideration when determining an application that seeks to modify an SSD application. The matters for consideration under section 4.55(1A) of the EP&A Act that apply have been considered in **Table 2**.

Table 1: Assessment against Section 4.55 of the EP&A Act

Section 4.55 (1A) Evaluation	Consideration
a) that the proposed modification is of minimal environmental impact, and	Section 6 of this report provides an assessment of the impacts associated with the modification application. The Department is satisfied that the proposed modifications will have minimal environmental impact.
b) 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	The Department is satisfied that the modification applications is substantially the same development. The modifications proposed do not alter key aspects or elements of the original development as approved.
c) the application has been notified in accordance with the regulations, and	The application was placed on exhibition on the Department's website and advertised for 14 days in local newspapers. Council and TfNSW were also notified of the application.
d) any submission made concerning the proposed modification has been considered.	The Department received a response from Council and TfNSW (RMS). One public submission was also received objecting to the modification application for the south tower (SSD 9326 – MOD 2). This is discussed in Section 4.0 of this report.

3.2 Consent authority

The Minister for Planning and Public Spaces is the consent authority for the application under Section 4.5(a) of the EP&A Act. However, under the Minister's delegation dated 9 March 2020, the Director, Key Sites Assessments, may determine the application as:

- a political disclosure statement has not been made

- no submissions in the nature of an objection have been received.

3.3 Mandatory matters for considerations

The Department conducted a comprehensive assessment of the project against the mandatory matters for consideration as part of the original assessment of SSD 9326 and SSD 9270. The Department considers that the modification applications do not result in significant change that would alter the mandatory matters for consideration under Section 4.15 of the EP&A Act and conclusions made as part of the original assessments.

Table 3 identifies the matters for consideration that apply to the proposed modification.

Table 2 : Section 4.15 Evaluation

Section 4.15 (1) Evaluation	Consideration
(a)(i) any environmental planning instrument	The modified proposals are consistent with the relevant legislation, SLEP 2012.
(a)(ii) any proposed instrument	The draft Central Sydney Planning Strategy which seeks to amend the SLEP 2012 applies to the site. The provisions of the strategy are not relevant to the modification applications.
(a)(iii) any development control plan	Under clause of the SRD SEPP, Development Control Plans do not apply to SSD. The SDCP provisions are not relevant to the modification applications.
a)(iv) any planning agreement	Not applicable.
(a)(iv) the regulations	The application meets the relevant requirements of the EP&A Regulation, including the procedures relating to applications (Part 6), the requirements for notification (Part 6, Division 6) and fees (Part 15, Division 1AA).
(b) the likely impacts of that development including environmental impacts on both the natural and built environments, and social and economic impacts in the locality	The Department considers the likely impacts of the development are acceptable and have been appropriately addressed (refer to Section 6 of this report).
c) the suitability of the site for the development	The site remains suitable for the development as assessed in the original application.
(d) any submissions	One public submission was received for the modification application of the south tower (SSD 9326-MOD 2). Agency

responses were also received from Council and TfNSW. This is discussed further in **Section 4.0** of this report.

(e) the public interest

The Department considers that the modified proposal is in public interest as it aims to ameliorate risk around the construction sites and maximise public safety during the construction phase of the development and will ensure timely delivery of the Martin Place over station developments.

4 Engagement

4.1 Department's engagement

Clause 117(3B) of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation) specifies that the notification requirements of the EP&A Regulation do not apply to Section 4.55(1A) modifications with minimal environmental impact applications. However, the Department exhibited the applications for 14 days from 16 to 29 April 2020. The modification applications were advertised in the *Daily Telegraph* and *Sydney Morning Herald* on 15 April 2020 and letters were sent to surrounding landowners and occupiers in line with the original SSD applications.

The modification applications were also referred to Council, TfNSW (including RMS) for their review and comments.

4.2 Summary of submissions

During the exhibition period, the Department received one public submission in the form of an objection to SSD-9326-Mod-2. As the subject applications and sites are interrelated and were advertised concurrently, the Department has considered the submission in relation to both applications.

Comments on both applications were received from Council and TfNSW (including RMS). Given the related nature of the two modification applications, the advice provided equally applied to both applications.

4.3 Public authority submissions

A summary of the issues raised in the public authority advice is provided at **Table 1** below and copies of the comments may be viewed at **Appendix A**.

Table 1 | Summary of public authority comments

City of Sydney Council

- The inclusion of high-risk activities as out-of-hours works is questioned. It is considered that these works can be done during normal hours, subject to restricted access around the relevant work area for the duration of the high-risk work.
- Approval from all residents (owners/occupiers) in a building must be obtained for a community agreement, not just from the strata or building manager, prior to works commencing.

Transport for NSW / RMS

- It is requested that the Construction Pedestrian and Traffic Management Plan (CPTMP) required under Condition C19 be updated, in consultation with the Sydney Coordination Office within TfNSW, to incorporate any change to construction works as a result of the proposed modification.

4.4 Public submission

The public submission came from a nearby resident raising concern about noise from the ongoing construction works on the Martin Place Metro site (under CSSI 7400) and previous variations to construction hours for those works.

4.5 Response to submissions

On 1 May 2020, the Department issued a Request For Information, requesting the Applicant to respond to the issues raised by Council, TfNSW (including RMS) and the public submission received.

On 28 September 2020, the Applicant responded addressing the issues raised and providing further justification in support of the amendments proposed to Condition D3. The Response to Submissions (RtS) is also accompanied by a response from Lendlease, the primary construction contractor, to the agency comments and submissions received for the application.

The Applicant's RtS was made publicly available on the Department's website.

5 Assessment

The key issues relevant to the proposed modification and submissions received are:

- Noise management
- Traffic management

Noise management

The Applicant seeks to amend Condition D3 of the over station development consents to include the additional out-of-hours circumstances and activities permitted under Condition E44 of the CSSI 7400 consent (refer to items i - ii below). The Applicant also seeks to include four additional circumstances that will enable high-risk on-site work to be undertaken outside of standard construction hours (refer to items iii - v). A full list of additional circumstances proposed to be included under Condition D3 by the Applicant is provided below:

- i. incorporating relevant out-of-hours-work provisions of CSSI 7400 (Condition E44) where noise and vibration levels are capable of complying with the acceptable noise and vibration criteria under the Interim Construction Noise Guideline (DECC, 2009) and Assessing Vibration: a technical guideline (DECC, 2006) respectively.
- ii. permitting out of standard construction works where a negotiated agreement has been reached with a substantial majority of sensitive receivers in vicinity of the site in certain circumstances
- iii. when directed by a roads authority to undertake works outside of standard hours, where those activities during standard hours would result in a high risk to road network operational performance
- iv. when carrying out works that during standard hours would result in a high risk to construction personnel or public safety, based on a risk assessment carried out in accordance with AS/NZS ISO 31000:2009 "Risk Management"
- v. when the relevant utility service operator has advised the applicant in writing that carrying out the works and activities during standard hours would result in a high risk to the operation and integrity of the utility network
- vi. as otherwise approved by the Planning Secretary.

The Applicant also seeks to amend Condition D3 to include a requirement for the preparation of an updated CEMP or CFEMP prior to undertaking any of the additional activities nominated under Condition D3. The CEMP and CFEMP is to identify the duration and type of all activities to be undertaken during out-of-hours periods and will be accompanied by a noise and vibration impact assessment, outline mitigation measures and develop a management plan if necessary.

Council did not object to the proposed modifications, but provided comments raising concern on the following two matters:

- the amendment of condition D3 to allow high risk works to be undertaken out of standard construction hours (refer to item iv above). Council notes that high risk work generally involves façade works or other external building works that are typically noisy activities. Council's

preference is for these works to be completed during standard construction hours in conjunction with the use of restricted access to ensure public safety.

- amendment of condition D3 to allow for a negotiated approval from a substantial majority of sensitive receivers. Council consider approval should be obtained from all owners / occupiers of a noise affected building, not just from the strata or building manager (refer to item II above).

One public submission was also received from a resident of the neighbouring residential building at 1 Hosking Place objecting to the proposed out of hours works.

Construction Noise Management

The Department acknowledges the public submission from 1 Hosking Place, which is located approximately 60 m west of the North Tower. The Department notes the property has already been identified as a stakeholder under the existing protocol for out of hours works for the approved station. Noise monitoring shows that no project related noise exceedances have been identified by the project team to date with noise and vibration monitoring reports developed in consultation with, and endorsed by, an independent Acoustics Advisor under the CSSI 7400 consent. The Department notes these reports are publicly available on the Martin Place station website (lendlease.com/martinplacemetro).

The Department has considered Council's preference for high risk activities that are noise generating to be carried out during standard construction hours. However, the Department considers that footpath closures, pedestrian diversion and lane closures during peak pedestrian and traffic hours to support any high-risk activities may result in greater and longer period of construction disruptions to local residents and the business community, particularly at this CBD location. On balance, the Department considers the proposed inclusion of high-risk activities as out-of-hours works is acceptable subject to appropriate noise management conditions.

The Department notes Conditions under the over station development consents, will continue to apply to the proposed out of hours works, including the requirement for a Construction Noise and Vibration Management Sub-Plan. The plan requires monitoring of noise performance during the construction period to ensure compliance with relevant guidelines and standards.

The Department also recommends an additional condition requiring the preparation of a Construction Noise Verification Impact Statement. The objective is to ensure the actual noise level of the proposed out of hours works will be verified and all the relevant plans can be updated to mitigate any noise issue, if identified after testing. The recommended condition also includes requirements for mitigation measures, community notification and consultation (**Condition 31**).

Condition C18 requires the Applicant to review the Construction Environmental Management Plan, including the Construction Noise and Vibration Management Sub-Plan in response to major changes to work methods and prior to the commencement of the proposed out of hours works. This review will be required subsequent to the completion of the Construction Noise Verification Impact Statement as recommended.

Community Agreement

The Department supports the use of community agreements to manage potential noise impacts associated with the proposed out of hours works. The Department accepts the Applicant's request that it is unreasonable for approval to be obtained from all residential owner/occupiers for a community agreement because it is inconsistent with the existing protocol already in place for works

for the approved station under the CSSI 7400 consent (Condition E44(e)) which is being constructed concurrently with the over station development.

Under the CSSI 7400 consent (Condition E44(e)), a 'substantial majority' approval (65% or greater) will be required from all the residential owners/occupiers to implement a community negotiated agreement. The Department considers the requirement for all owners and occupiers to agree is not practical for surrounding buildings with large numbers of owners and occupiers. The Department therefore recommends the substantial majority definition under the CSSI approval should also apply to the over station development consents.

Conclusion

The Department therefore concludes the proposed out of hours works and modification to Condition D3 on each consent are acceptable because:

- the proposed additional out-of-hours construction activities will support a coordinated approach to construction noise management and will potentially reduce the overall construction timeframe and disruption
- the concurrent construction of the approved station and over station development warrants a consistent approach to out of hours works, including the need to obtain a community agreement
- existing conditions of consent relating to noise management will continue to apply to appropriately mitigate and manage potential impacts and an additional condition is recommended to verify actual noise level and to update any relevant construction noise management plan, if required (**Condition C18 and C31**).

Traffic Management

In accordance with Condition C19, the Applicant will be required to update the Construction Pedestrian and Traffic Management Plan (CPTMP) lodged with the SSD applications, or amend the CPTMP for CSSI 7400, prior to the issue of a Construction Certificate.

TfNSW (including RMS) requested that an updated Construction Pedestrian and Traffic Management Plan (CPTMP) be submitted under Condition 19 of the over station development consents.

The Applicant's RtS raised no objection to preparing and submitting an updated CPTMP to the Coordinator General, Transport Coordination for endorsement prior to the issue of a Construction Certificate.

The Department is satisfied that the existing condition (Condition 19(b) of the over station development consent) already requires the preparation of an updated CPTMP and no change or modification to the condition itself is warranted to facilitate the above.

6 Evaluation

The Department has assessed the modification request and supporting information in accordance with the relevant requirements of the EP&A Act.

The Department's assessment concludes that the proposed modifications are appropriate as:

- the modification aligns construction management procedures for out of hours works for the approved infrastructure and the over station development
- the modifications would potentially reduce the overall construction timeframes
- potential noise impacts can be appropriately addressed / managed by existing and recommended conditions of consent
- the changes comply with the relevant statutory provisions and remains consistent with relevant EPIs
- the modifications are substantially the same development as originally approved.

Consequently, the Department concludes the proposal is in the public interest and should be approved, subject to the recommended changes to existing conditions of consent as outlined in **Appendix B**.

7 Recommendation

It is recommended that the Director, Key Sites Assessments, as delegate of the Minister for Planning and Public Spaces:

- **considers** the findings and recommendations of this report
- **determines** that the applications SSD 9270 MOD 1 and SSD 9326 MOD 2 fall within the scope of section 4.55(1A) of the EP&A Act
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to approve the modification
- **agrees** with the key reasons for approval listed in the draft notice of decision;
- **modify** the consents SSD 9270 and SSD 9326
- **signs** the attached approval of the modification (**Appendix B**).

Recommended by:



Joina Mathew
Planning Officer
Key Sites Assessments

Recommended by:



Annie Leung
Team Leader
Key Sites Assessments

8 Determination

The recommendation is **Adopted** by:

 16/12/2020

Anthony Witherdin

Director

Key Sites Assessments

as delegate of the Minister for Planning and Public Spaces

Appendices

Appendix A – List of referenced documents

SSD-9270-Mod-1 (North Site)

1. Modification Request
<https://www.planningportal.nsw.gov.au/major-projects/project/27231>
2. Additional information
<https://www.planningportal.nsw.gov.au/major-projects/project/27231>
3. Submissions
<https://www.planningportal.nsw.gov.au/major-projects/project/27231>

SSD-9326-Mod-2 (South Site)

1. Modification Request
<https://www.planningportal.nsw.gov.au/major-projects/project/27236>
2. Additional information
<https://www.planningportal.nsw.gov.au/major-projects/project/27236>
3. Submissions
<https://www.planningportal.nsw.gov.au/major-projects/project/27236>

Appendix B – Notice of modification

SSD-9270-Mod-1: <https://www.planningportal.nsw.gov.au/major-projects/project/27231>

SSD-9326-Mod-2: <https://www.planningportal.nsw.gov.au/major-projects/project/27236>