

Notice of decision

Section 2.22 and clause 20 of Schedule 1 of the *Environmental Planning and Assessment Act 1979*

Application type	State significant development
Application number and project name	SSD 9579 Crows Nest Over Station Development - Concept Application
Applicant	Sydney Metro
Consent Authority	Minister for Planning and Public Spaces

Decision

The Minister for Planning and Public Spaces, under section 4.38 of the *Environmental Planning and Assessment Act 1979* (**the Act**) granted consent to the development application subject to the recommended conditions.

A copy of the development consent and conditions is available [here](#).

A copy of the Department of Planning, Industry and Environment's Assessment Report is available [here](#).

Date of decision

23 December 2020

Reasons for decision

The following matters were taken into consideration in making this decision:

- the relevant matters listed in section 4.15 of the Act and the additional matters listed in the statutory context section of the Department's Assessment Report;
- the prescribed matters under the *Environmental Planning and Assessment Regulation 2000*;
- the objects of the Act;
- all information submitted to the Department during the assessment of the development application and additional information considered in the Department's Assessment Report;
- the findings and recommendations in the Department's Assessment Report; and
- the views of the community about the project (see Attachment 1).

The findings and recommendations set out in the Department's Assessment Report were accepted and adopted as the reasons for making this decision.

The key reasons for granting consent to the development application are as follows:

- *Consistent with NSW Government Policy* – the project is permissible with development consent, and is consistent with NSW Government policies including the Greater Sydney Region Plan, North District Plan and State Infrastructure Strategy
- *Benefits* – the project would provide a range of benefits for the region and the State as a whole, including new residential uses, retail uses and commercial uses, up to 2,010 operational jobs and 945 construction jobs and a capital investment value of approximately \$381 million
- *Impacts can be managed* - the impacts on the community and the environment can be appropriately minimised, managed or offset to an acceptable level, in accordance with applicable NSW Government policies and standards
- *Community views considered* - the issues raised by the community during consultation and in submissions have been considered and adequately addressed through an amended proposal and the recommended conditions of consent.
- weighing all relevant considerations, the project is in the public interest.

Attachment 1 – Consideration of Community Views

The Department publicly exhibited the Environmental Impact Statement (EIS) between 16 November 2018 and 8 February 2019 (85 days). The Department received 618 submissions, comprising 10 from public authorities providing comments, a submission from North Sydney Council and Lane Cove Council both objecting to the proposal and 606 submissions from the public comprising 599 objections (including 2 petitions with 139 signatures), six comments and one in support of the proposal.

The Applicant's Response to Submissions package was received on 9 September 2020 and exhibited from 8 September 2020 until 6 October 2020 (28 days). The Department received 30 submissions including four from public authorities, a submission from North Sydney Council reiterating its objection, 25 from the public comprising 22 objections, one comment and two in support.

The key issues raised by the community (including in submissions) and considered in the Department's Assessment Report and by the decision maker include land use and density; building envelopes; overshadowing; amenity and parking and traffic. Other issues are addressed in detail in the Department's Assessment Report.

Issue raised	Department's consideration
Land use and density	<p>Assessment</p> <ul style="list-style-type: none"> The proposed density and land uses are consistent with the new maximum overall FSR and minimum non-residential FSR controls for the site as finalised in the Rezoning Proposal. The Department acknowledges the proposal's density would be greater than that of the pre-demolition development. However, the provision of higher density commercial and residential development in this location has strategic merit, particularly given it will provide for a significant increase in commercial floorspace, job creation, affordable housing, has excellent access to public transport and is conveniently located to facilities and services. The density would not have adverse amenity or traffic impacts.
Height, scale and building setbacks	<p>Assessment</p> <ul style="list-style-type: none"> The height of building envelopes is consistent with the NSLEP maximum height controls and the emerging character of the St Leonards and Crows Nest Precinct and provide for an appropriate built form transition to adjoining developments. The heights would not have unreasonable amenity impacts in terms of solar access, outlook views and privacy. The perception of visual bulk from the proposed building envelopes is attributable to the length of the proposed building envelopes relative to their maximum height, particularly for Building A and Building B. To manage and mitigate the scale of the development the Department recommends a maximum building efficiency control of 85% for Building A and 85% for Building B. In addition, new Design Guidelines are proposed requiring the incorporation of appropriate vertical building articulation. The ground floor level building setbacks have been established by the CSSI Approval and therefore they do not form part of this application. The absence of above podium setbacks is acceptable subject to future developments responding to the Design Guideline horizontal modulation requirements and other Design Guideline and built form parameters. <p>Recommended Conditions</p> <ul style="list-style-type: none"> Future buildings shall not exceed the maximum building efficiency targets of 85% (Building A) and 80% (Building B). Additional Design Guidelines relating to vertical and horizontal building articulation.
Car parking, traffic and	<p>Assessment</p> <ul style="list-style-type: none"> The maximum car parking provision (101 spaces) represents a 26% reduction in the number of car parking spaces compared to the pre-demolition condition (138 spaces) and 36% less than the NSDCP maximum (156 spaces). Reduced car parking will encourage a mode shift away from private vehicle use towards public and active transport options. The metro station infrastructure occupies the entire site it would not be possible to provide for basement car parking. Above ground car parking is acceptable subject to it being integrated into the overall design of the building. the development results in a reduction of vehicle trips when compared to the pre-demolition condition and surrounding local road network including key intersections would generally function at the same LoS with or without the proposal. <p>Recommended Conditions</p>

	<ul style="list-style-type: none"> Future development shall not exceed 101 car parking spaces and shall prepare and implement Travel Plans. Any above ground car parking shall be architecturally integrated into the design of buildings to ensure it is screened from view.
Overshadowing of public open space and residential properties	<p>Assessment</p> <ul style="list-style-type: none"> The overshadowing impact on Ernest Place, Hume Street Park and Willoughby Road is consistent with the requirements of the NSLEP and 2036 Plan and additional overshadowing of Ernest Place before 4pm is minor in nature and acceptable. Residential properties on Pacific Highway would continue to receive, as a minimum, between 1 and 2 hours of direct sunlight during mid-winter. The overshadowing impacts on residential properties are acceptable as the proposed building envelopes are consistent with the scale of surrounding modern developments and the NSLEP maximum height and FSR controls. In addition, the affected properties are located opposite a development site in a central urban area and changes to solar access are to be expected in such circumstances. <p>Recommended Conditions</p> <ul style="list-style-type: none"> Future DA(s) are required to include overshadowing analysis and demonstrate that overshadowing has been minimised.
Impact on privacy, outlook and views	<p>Assessment</p> <ul style="list-style-type: none"> The increase in density associated with the St Leonards and Crows Nest Precinct, including the proposed built form, will inevitably impact on views within the locality. The impact on views is considered reasonable given the context of the site and the Precinct. The proposed building envelopes exceed the ADG recommended minimum building separation distances for all adjoining properties. The Department therefore concludes future OSD buildings will be capable of being designed to not have an adverse impact on privacy and outlook of adjoining residential properties.
Development contributions	<p>Assessment</p> <ul style="list-style-type: none"> Site A, B and C are excluded from the St Leonards and Crows Nest Special Infrastructure Contribution area and therefore this does not apply to the development. The Applicant has proposed to make an \$11 million development contribution. <p>Recommended Conditions</p> <ul style="list-style-type: none"> Preparation and execution of a voluntary planning agreement for the \$11 million and payment of the contribution prior to the submission of the first DA.
Affordable housing	<p>Assessment</p> <ul style="list-style-type: none"> The Applicant has committed to providing 5% of all residential floor space as affordable rental housing (ARH) on the site for a minimum of ten years or the payment of an equivalent contribution in lieu of providing ARH on the site. <p>Recommended Conditions</p> <ul style="list-style-type: none"> Future DA(s) for Building B to provide 5% ARH or make an equivalent contribution.
Incorporation of public open space	<p>Assessment</p> <ul style="list-style-type: none"> The proposal is located wholly above the Crows Nest metro station (CSSI Approval) with a transfer level potentially above RL 100 m. The provision of a public open space is impractical in such circumstances. the proposed land uses are permissible and meet the objectives of the zone and the strategic vision for the area. Council has endorsed a masterplan to redevelop and increase the size of Hume Street Park.
Footpath width	<p>Assessment</p> <ul style="list-style-type: none"> The ground floor level setbacks have been established by the CSSI Approval and therefore they (including footpath widths) do not form part of this application.
Development Precedent	<p>Assessment</p> <ul style="list-style-type: none"> Any development of surrounding land would be the subject of separate development applications (including public consultation), subject to height, floor space ratio and other planning controls and would be assessed on their merits